

AMENDED IN ASSEMBLY MARCH 4, 2010

AMENDED IN ASSEMBLY JUNE 25, 2009

AMENDED IN ASSEMBLY JUNE 11, 2009

AMENDED IN SENATE APRIL 23, 2009

SENATE BILL

No. 722

Introduced by ~~Senator~~ *Senators Simitian, Kehoe, and Steinberg*

February 27, 2009

~~An act to add Division 25.7 (commencing with Section 38700) to the Health and Safety Code, relating to greenhouse gases. An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, 25740.5, 25741, 25742, 25746, 25747, and 25751 of the Public Resources Code, and to amend Sections 399.2.5, 399.11, 399.12, 399.17, and 454.5 of, to amend and renumber Section 399.16 of, to amend, renumber, and add Section 399.13 of, to add Sections 399.18, 399.26, 399.30, 399.31, and 1005.1 to, to add Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of, to repeal Section 387 of, and to repeal and add Sections 399.14 and 399.15 of, the Public Utilities Code, relating to energy, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 722, as amended, ~~Steinberg~~ *Simitian*. ~~Greenhouse gas credits. Utilities: renewable energy resources.~~

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that

enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a “public goods charge.” The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law establishes the Renewable Resource Trust Fund as a fund that is continuously appropriated, with certain exceptions for administrative expenses, in the State Treasury and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.

This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020. The bill would revise certain terms used in the program and revise certain eligibility criteria for a renewable electrical generation facility, as defined, pursuant to the program.

(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard Program (RPS program), to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage

of total kilowatthours sold to retail end-use customers each calendar year. The RPS program requires the PUC to implement annual procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010. Existing law requires the PUC to make a determination of the existing market cost for electricity, which PUC decisions call the market price referent, and to limit an electrical corporation's obligation to procure electricity from eligible renewable energy resources, that exceeds the market price referent, by a specified amount.

This bill would express the intent that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2013, and 33% by December 31, 2020. The bill would require that a retail seller procure the following percentages of electricity from eligible renewable energy resources by the following dates: (A) Until December 31, 2012, the same percentage as actually achieved by the retail seller during 2009; (B) 20% by December 31, 2013; (C) 25% by December 31, 2016; and (D) 33% by December 31, 2020. The bill would authorize the PUC to permit a retail seller to delay compliance with (B) or (C) procurement levels when specified circumstances are present, but would not authorize the PUC to permit a retail seller to delay compliance with the (D) procurement level. The bill would require the PUC to direct each electrical corporation to annually prepare a renewable energy procurement plan containing specified matter and require, to the extent feasible, that the plan be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The bill would require the commission to direct all retail sellers to prepare and submit an annual compliance report. The bill would delete the existing market price referent provisions and instead require the PUC to establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of, and reflecting, certain matters. The bill would require the PUC to establish a limitation on the annual expenditures made above the market price, by an electrical corporation, in order to achieve the procurement levels established by the PUC. The bill would require the PUC to permit an

electrical corporation to limit its procurement of electricity from eligible renewable energy resources to that quantity that can be procured at or below the market prices established by the PUC, up to the limitation. The bill would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers. The bill would revise the definitions of certain terms for purposes of the RPS program. The bill would authorize an electrical corporation to apply to the PUC for approval to construct, own, and operate an eligible renewable energy resource and require the PUC to approve the application if certain conditions are met, until corporation owned and operated resources provide 8.5% of the corporation's anticipated retail sales.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill are within the act and require action by the PUC to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

This bill would repeal this provision and instead make certain of the requirements of the RPS program, as discussed below, applicable to local publicly owned electric utilities. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

(4) Existing law requires the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers, and to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined.

This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations specifying procedures for enforcement of the RPS requirements that include a public process under which the Energy Commission is authorized to issue a notice of violation and correction

with respect to a local publicly owned electric utility and for referral to the State Air Resources Board for penalties imposed pursuant to the California Global Warming Solutions Act of 2006. The bill would require a local publicly owned electric utility to procure the same percentages of electricity from eligible renewable energy resources as retail sellers are required to procure. The bill would provide that the local publicly owned electric utility retains discretion with respect to certain matters in complying with the RPS, would require that certain notices be given by the utility when adopting and periodically revising its procurement plan, and would require the utility to report certain information relative to RPS compliance to the Energy Commission and its customers.

(5) Existing law requires the PUC to prepare and submit to the Governor and the Legislature a written report annually before February 1 of each year on the costs of programs and activities conducted by an electrical corporation or gas corporation that have more than a specified number of customers in California.

This bill would require the PUC to prepare and submit to the policy and fiscal committees of the Legislature, annually before February 1 of each year, a report on (A) all electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, (B) all cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard, (C) all costs incurred by electrical corporations for incentives for distributed and renewable generation, (D) all cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed generation and renewable generation, (E) specified costs for which an electrical corporation is seeking recovery in rates that are pending determination or approval by the PUC, (F) the decision number of each PUC decision in the prior year authorizing an electrical corporation to recover costs incurred in rates, and (G) any changes in the prior year in load serviced by an electrical corporation.

(6) The bill would require the Energy Commission, by July 1, 2011, to update previously conducted studies relating to determining the effective load carrying capacity of wind and solar energy resources on the electrical grid. The bill would require the PUC to use those values in establishing the contribution of those resources toward meeting specified resource adequacy requirements.

(7) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or

system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity. Existing law requires the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS program. Existing law requires the PUC, upon finding that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS, to take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission (FERC) are fully reflected in any retail rates established by the PUC.

This bill would require the PUC to issue a decision on an application for a certificate of public convenience and necessity within 18 months of the filing of a completed application under specified circumstances. The bill would require the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard. The bill would require the PUC to provide assurance of the eligibility for recovery in retail rates of any increase in transmission costs incurred by an electrical corporation resulting from the construction of transmission facilities in certain circumstances and to allow recovery in retail rates of any increase in transmission costs if not approved by the Federal Energy Regulatory Commission if the PUC determines the costs were prudently incurred pursuant to a specified law.

(8) Existing law establishes the Department of Fish and Game in the Natural Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code.

This bill would require the department to establish an internal division with the primary purpose of performing comprehensive planning and environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.

(9) The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent

System Operator (ISO). Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council. Pursuant to existing law, the ISO's tariffs are required to be approved by the FERC.

This bill would require the ISO and other California balancing authorities to work cooperatively to integrate and interconnect eligible renewable energy resources to the transmission grid by the most efficient means possible with the goal of minimizing the impact and cost of new transmission facilities needed to meet both reliability needs and the renewables portfolio standard procurement requirements, and to accomplish this in a manner that respects the ownership, business, and dispatch models for transmission facilities owned by electrical corporations, local publicly owned electric utilities, joint power agencies, and merchant transmission companies.

(10) This bill would appropriate \$322,000 from the Public Utilities Commission Utilities Reimbursement Account to the PUC for additional staffing to identify, review, and approve transmission lines reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, a person or entity that represents that a consumer good that it manufactures or distributes is not harmful to, or is beneficial to, the natural environment, through the use of specified environmental terms, is required to maintain in written form in its records information and documentation supporting the validity of the representation, as specified. Existing law provides that it is unlawful for a person to make any untruthful, deceptive, or misleading environmental marketing claim, whether explicit or implied. A violation of these requirements is a misdemeanor.~~

~~This bill would make it unlawful for a person, as defined, to represent in an advertisement or in any other sales or promotional materials made available to the public for the sale of a greenhouse gas credit or emission reduction, that the credit or reduction reduces greenhouse gas emissions~~

~~unless certain requirements are met. The bill would also require a person that represents in an advertisement or in any sales or promotional materials made available to the public for the sale of a greenhouse gas credit or emission reduction, that the credit or emission reduction results in a reduction of greenhouse gases to maintain in written form and make available to any member of the public who requests it certain information and documentation supporting the validity of that representation. A violation of these provisions would be punishable by a specified civil penalty and would create a civil cause of action. Reasonable attorney fees and costs would be available for any such action brought. These requirements would become operative on January 1, 2011, and would become inoperative if the Federal Trade Commission adopts binding and enforceable trade rules or regulations for claims or representations for greenhouse gas emission reduction credits or reductions to protect consumers.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 705 is added to the Fish and Game Code,
 2 to read:
 3 705. (a) For purposes of this section, “eligible renewable
 4 energy resources” has the same meaning as in the California
 5 Renewables Portfolio Standard Program (Article 16 (commencing
 6 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
 7 Public Utilities Code).
 8 (b) The department shall establish an internal division with the
 9 primary purpose of performing comprehensive planning and
 10 environmental compliance services with priority given to projects
 11 involving the building of eligible renewable energy resources.
 12 (c) The internal division shall ensure the timely completion of
 13 plans pursuant to the Natural Community Conservation Planning
 14 Act (Chapter 10 (commencing with Section 2800) of Division 3).
 15 SEC. 2. Section 25740 of the Public Resources Code is
 16 amended to read:
 17 25740. The Legislature finds and declares that the State Air
 18 Resources Board has identified a statewide 33 percent renewables
 19 portfolio standard as a key measure to comply with the
 20 requirements of the California Global Warming Solutions Act of

2006. It is the intent of the Legislature in establishing this program, to increase the amount of electricity generated from eligible renewable energy resources per year, so that it equals at least 33 percent of total retail sales of electricity in California per year by December 31, 2020.

SEC. 3. Section 25740.5 of the Public Resources Code is amended to read:

25740.5. (a) The commission shall optimize public investment and ensure that the most cost-effective and efficient investments in renewable energy resources are vigorously pursued.

(b) The commission's long-term goal shall be a fully competitive and self-sustaining supply of electricity generated from renewable sources.

(c) The program objective shall be to increase, in the near term, the quantity of California's electricity generated by ~~in-state renewable electricity generation facilities~~ *electrical generation facilities located in this state*, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.

(d) An additional objective of the program shall be to identify and support emerging renewable technologies in distributed generation applications that have the greatest near-term commercial promise and that merit targeted assistance.

(e) The Legislature recommends allocations among all of the following:

(1) Rebates, buydowns, or equivalent incentives for emerging renewable technologies.

(2) Customer education.

(3) Production incentives for reducing fuel costs, that are confirmed to the satisfaction of the commission, at solid fuel biomass energy facilities in order to provide demonstrable environmental and public benefits, including improved air quality.

(4) Solar thermal generating resources that enhance the environmental value or reliability of the electrical system and that require financial assistance to remain economically viable, as determined by the commission. The commission may require financial disclosure from applicants for purposes of this paragraph.

(5) Specified fuel cell technologies, if the commission makes all of the following findings:

1 (A) The specified technologies have similar or better air
2 pollutant characteristics than renewable technologies in the report
3 made pursuant to Section 25748.

4 (B) The specified technologies require financial assistance to
5 become commercially viable by reference to wholesale generation
6 prices.

7 (C) The specified technologies could contribute significantly
8 to the infrastructure development or other innovation required to
9 meet the long-term objective of a self-sustaining, competitive
10 supply of electricity generated from renewable sources.

11 (6) Existing wind-generating resources, if the commission finds
12 that the existing wind-generating resources are a cost-effective
13 source of reliable energy and environmental benefits compared
14 with other ~~in-state renewable electricity generation facilities~~
15 *electrical generation facilities located in this state*, and that the
16 existing wind-generating resources require financial assistance to
17 remain economically viable. The commission may require financial
18 disclosure from applicants for the purposes of this paragraph.

19 (f) Notwithstanding any other provision of law, moneys
20 collected for renewable energy pursuant to Article 15 (commencing
21 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the
22 Public Utilities Code shall be transferred to the Renewable
23 Resource Trust Fund. Moneys collected between January 1, 2007,
24 and January 1, 2012, shall be used for the purposes specified in
25 this chapter.

26 *SEC. 4. Section 25741 of the Public Resources Code is*
27 *amended to read:*

28 25741. As used in this chapter, the following terms have the
29 following meaning:

30 (a) *“Delivered” and “delivery,” have the same meaning as*
31 *defined in Section 399.12 of the Public Utilities Code.*

32 ~~(a) “Delivered” and “delivery” mean the electricity output of~~
33 ~~an in-state renewable electricity generation facility~~

34 (b) *“Procurement entity” means any person or corporation that*
35 *is used to serve end-use enters into an agreement with a retail*
36 *customers located within the state. Subject seller to verification*
37 *by the accounting system established by the commission procure*
38 *eligible renewable energy resources pursuant to subdivision (b)*

39 ~~(g) of Section 399.13 of the Public Utilities Code, electricity shall~~
40 ~~be deemed delivered if it is either generated at a location within~~

1 ~~the state, or is scheduled for consumption by California end-use~~
2 ~~retail customers. Subject to criteria adopted by the commission,~~
3 ~~electricity generated by an eligible renewable energy resource may~~
4 ~~be considered “delivered” regardless of whether the electricity is~~
5 ~~generated at a different time from consumption by a California~~
6 ~~end-use customer.~~

7 (b) ~~“In-state renewable electricity~~

8 (c) *“Renewable electrical generation facility”* means a facility
9 that meets all of the following criteria:

10 (1) The facility uses biomass, solar thermal, photovoltaic, wind,
11 geothermal, fuel cells using renewable fuels, small hydroelectric
12 generation of 30 megawatts or less, digester gas, municipal solid
13 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal
14 current, and any additions or enhancements to the facility using
15 that technology.

16 (2) The facility satisfies one of the following requirements:

17 (A) The facility is located in the state or near the border of the
18 state with the first point of connection to the transmission network
19 ~~within this state and electricity produced by of a balancing~~
20 ~~authority area primarily located within the facility is delivered to~~
21 ~~an in-state location. state.~~

22 (B) The facility has its first point of interconnection to the
23 transmission network outside the state and satisfies all of the
24 following requirements:

25 (i) It is connected to the transmission network within the
26 Western Electricity Coordinating Council (WECC) service
27 territory.

28 (ii) It commences initial commercial operation after January 1,
29 ~~2005. 2010.~~

30 (iii) ~~Electricity produced by the facility is delivered to an in-state~~
31 ~~location.~~

32 (iv)

33 (iii) It will not cause or contribute to any violation of a California
34 environmental quality standard or requirement.

35 (v) ~~If the facility is outside of the United States, it is developed~~
36 ~~and operated in a manner that is as protective of the environment~~
37 ~~as a similar facility located in the state.~~

38 (vi)

39 (iv) It participates in the accounting system to verify compliance
40 with the renewables portfolio standard ~~by retail sellers, once~~

1 established by the ~~Energy Commission~~ *commission* pursuant to
2 subdivision (b) of Section ~~399.13~~ 399.25 of the Public Utilities
3 Code.

4 (C) The facility meets the requirements of clauses (i), (iii), ~~(iv)~~,
5 ~~(v)~~, and ~~(vi)~~ in (iv) of subparagraph (B), but does not meet the
6 requirements of clause (ii) of subparagraph (B) because it
7 ~~commencees~~ *commenced* initial operation prior to January 1, ~~2005~~,
8 2010, if the facility satisfies either of the following requirements:

9 (i) The electricity is from incremental generation resulting from
10 expansion or repowering of the facility.

11 (ii) ~~The facility has been part of~~ *Electricity generated by the*
12 ~~existing baseline of eligible renewable energy resources of facility~~
13 ~~was procured by a retail seller established pursuant to paragraph~~
14 ~~(2) of subdivision (b) of Section 399.15 of the Public Utilities Code~~
15 ~~or has been part of the existing baseline of eligible renewable~~
16 ~~energy resources of a local publicly owned electric utility~~
17 ~~established pursuant to Section 387 as of the Public Utilities Code.~~
18 *May 31, 2009.*

19 (3) *Any existing landfill gas facility approved by a publicly*
20 *owned electric utility prior to September 16, 2009, as a renewable*
21 *electric generation facility shall continue to qualify as a renewable*
22 *electric generation facility.*

23 (4) *If the facility is outside the United States, it is developed*
24 *and operated in a manner that is as protective of the environment*
25 *as a similar facility located in the state.*

26 ~~(3) For the purposes of this subdivision, “solid waste~~
27 ~~conversion”~~

28 (d) *“Municipal solid waste conversion,” as used in subdivision*
29 *(c), means a technology that uses a noncombustion thermal process*
30 *to convert solid waste to a clean-burning fuel for the purpose of*
31 *generating electricity, and that meets all of the following criteria:*

32 (A) The technology does not use air or oxygen in the conversion
33 process, except ambient air to maintain temperature control.

34 (B) The technology produces no discharges of air contaminants
35 or emissions, including greenhouse gases as defined in Section
36 38505 of the Health and Safety Code.

37 (C) The technology produces no discharges to surface or
38 groundwaters of the state.

39 (D) The technology produces no hazardous wastes.

1 (E) To the maximum extent feasible, the technology removes
2 all recyclable materials and marketable green waste compostable
3 materials from the solid waste stream prior to the conversion
4 process and the owner or operator of the facility certifies that those
5 materials will be recycled or composted.

6 (F) The facility at which the technology is used is in compliance
7 with all applicable laws, regulations, and ordinances.

8 (G) The technology meets any other conditions established by
9 the commission.

10 (H) The facility certifies that any local agency sending solid
11 waste to the facility diverted at least 30 percent of all solid waste
12 it collects through solid waste reduction, recycling, and
13 composting. For purposes of this paragraph, “local agency” means
14 any city, county, or special district, or subdivision thereof, which
15 is authorized to provide solid waste handling services.

16 ~~(e) “Procurement entity” means any person or corporation that~~
17 ~~enters into an agreement with a retail seller to procure eligible~~
18 ~~renewable energy resources pursuant to subdivision (f) of Section~~
19 ~~399.14 of the Public Utilities Code.~~

20 ~~(d)~~

21 (e) “Renewable energy public goods charge” means that portion
22 of the nonbypassable system benefits charge ~~authorized~~ *required*
23 to be collected and to be transferred to the Renewable Resource
24 Trust Fund ~~fund~~ *renewable energy* pursuant to the Reliable Electric
25 Service Investments Act (Article 15 (commencing with Section
26 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
27 Code).

28 ~~(e)~~

29 (f) “Report” means the report entitled “Investing in Renewable
30 Electricity Generation in California” (June 2001, Publication
31 Number P500-00-022) submitted to the Governor and the
32 Legislature by the commission.

33 ~~(f)~~

34 (g) “Retail seller” means a “retail seller” as defined in Section
35 399.12 of the Public Utilities Code.

36 *SEC. 5. Section 25742 of the Public Resources Code is*
37 *amended to read:*

38 25742. (a) Twenty percent of the funds collected pursuant to
39 the renewable energy public goods charge shall be used for
40 programs that are designed to achieve fully competitive and

1 self-sustaining existing ~~in-state~~ renewable ~~electricity~~ generation
2 facilities *electrical generation facilities located in this state*, and
3 to secure for the state the environmental, economic, and reliability
4 benefits that continued operation of those facilities will provide
5 during the 2007–2011 investment cycle. Eligibility for production
6 incentives under this section shall be limited to those technologies
7 found eligible for funds by the commission pursuant to paragraphs
8 (3), (4), and (6) of subdivision (e) of Section 25740.5.

9 (b) Any funds used to support ~~in-state~~ renewable ~~electricity~~
10 *electrical* generation facilities *located in this state* pursuant to this
11 section shall be expended in accordance with the provisions of this
12 chapter.

13 (c) Facilities that are eligible to receive funding pursuant to this
14 section shall be registered in accordance with criteria developed
15 by the commission and those facilities shall not receive payments
16 for any electricity produced that has any of the following
17 characteristics:

18 (1) Is sold at monthly average rates equal to, or greater than,
19 the applicable target price, as determined by the commission.

20 (2) Is used onsite.

21 (d) (1) Existing facilities *located in this state* generating
22 electricity from biomass energy shall be eligible for funding and
23 otherwise considered ~~an in-state renewable electricity~~ *a renewable*
24 *electrical* generation facility only if they report to the commission
25 the types and quantities of biomass fuels used.

26 (2) The commission shall report the types and quantities of
27 biomass fuels used by each facility to the Legislature in the reports
28 prepared pursuant to Section 25748.

29 (e) Each existing facility seeking an award pursuant to this
30 section shall be evaluated by the commission to determine the
31 amount of the funds being sought, the cumulative amount of funds
32 the facility has received previously from the commission and other
33 state sources, the value of any past and current federal or state tax
34 credits, the facility's contract price for energy and capacity, the
35 prices received by similar facilities, the market value of the facility,
36 and the likelihood that the award will make the facility competitive
37 and self-sustaining within the 2007–2011 investment cycle. The
38 commission shall use this evaluation to determine the value of an
39 award to the public relative to other renewable energy investment
40 alternatives. The commission shall compile its findings and report

1 them to the Legislature in the reports prepared pursuant to Section
2 25748.

3 *SEC. 6. Section 25746 of the Public Resources Code is*
4 *amended to read:*

5 25746. (a) One percent of the money collected pursuant to the
6 renewable energy public goods charge shall be used in accordance
7 with this chapter to promote renewable energy and disseminate
8 information on renewable energy technologies, including emerging
9 renewable technologies, and to help develop a consumer market
10 for renewable energy and for small-scale emerging renewable
11 energy technologies.

12 (b) If the commission provides funding for a regional accounting
13 system to verify compliance with the renewable portfolio standard
14 by retail sellers, pursuant to subdivision (b) of Section ~~399.13~~
15 ~~399.25~~ of the Public Utilities Code, the commission shall recover
16 all costs from user fees.

17 *SEC. 7. Section 25747 of the Public Resources Code is*
18 *amended to read:*

19 25747. (a) The commission shall adopt guidelines governing
20 the funding programs authorized under this chapter, at a publicly
21 noticed meeting offering all interested parties an opportunity to
22 comment. Substantive changes to the guidelines may not be
23 adopted without at least 10 days' written notice to the public. The
24 public notice of meetings required by this subdivision may not be
25 less than 30 days. Notwithstanding any other provision of law, any
26 guidelines adopted pursuant to this chapter or Section ~~399.13~~
27 ~~399.25~~ of the Public Utilities Code, shall be exempt from the
28 requirements of Chapter 3.5 (commencing with Section 11340) of
29 Part 1 of Division 3 of Title 2 of the Government Code. The
30 Legislature declares that the changes made to this subdivision by
31 the act amending this section during the 2002 portion of the
32 2001–02 Regular Session are declaratory of, and not a change in
33 existing law.

34 (b) Funds to further the purposes of this chapter may be
35 committed for multiple years.

36 (c) Awards made pursuant to this chapter are grants, subject to
37 appeal to the commission upon a showing that factors other than
38 those described in the guidelines adopted by the commission were
39 applied in making the awards and payments. Any actions taken
40 by an applicant to apply for, or become or remain eligible and

1 registered to receive, payments or awards, including satisfying
2 conditions specified by the commission, shall not constitute the
3 rendering of goods, services, or a direct benefit to the commission.

4 (d) An award made pursuant to this chapter, the amount of the
5 award, and the terms and conditions of the grant are public
6 information.

7 *SEC. 8. Section 25751 of the Public Resources Code is*
8 *amended to read:*

9 25751. (a) The Renewable Resource Trust Fund is hereby
10 created in the State Treasury.

11 (b) The following accounts are hereby established within the
12 Renewable Resource Trust Fund:

13 (1) Existing Renewable Resources Account.

14 (2) Emerging Renewable Resources Account.

15 (3) Renewable Resources Consumer Education Account.

16 (c) The money in the fund may be expended, only upon
17 appropriation by the Legislature in the annual Budget Act, for the
18 following purposes:

19 (1) The administration of this article by the state.

20 (2) The state's expenditures associated with the accounting
21 system established by the commission pursuant to subdivision (b)
22 of Section ~~399.13~~ 399.25 of the Public Utilities Code.

23 (d) That portion of revenues collected by electrical corporations
24 for the benefit of in-state operation and development of existing
25 and new and emerging renewable resource technologies, pursuant
26 to Section 399.8 of the Public Utilities Code, shall be transmitted
27 to the commission at least quarterly for deposit in the Renewable
28 Resource Trust Fund pursuant to Section 25740.5. After setting
29 aside in the fund money that may be needed for expenditures
30 authorized by the annual Budget Act in accordance with
31 subdivision (c), the Treasurer shall immediately deposit money
32 received pursuant to this section into the accounts created pursuant
33 to subdivision (b) in proportions designated by the commission
34 for the current calendar year. Notwithstanding Section 13340 of
35 the Government Code, the money in the fund and the accounts
36 within the fund are hereby continuously appropriated to the
37 commission without regard to fiscal year for the purposes
38 enumerated in this chapter.

39 (e) Upon notification by the commission, the Controller shall
40 pay all awards of the money in the accounts created pursuant to

subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts.

(g) The Department of Finance shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

SEC. 9. Section 387 of the Public Utilities Code is repealed.

~~387. (a) Each governing body of a local publicly owned electric utility shall be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.~~

~~(b) Each local publicly owned electric utility shall report, on an annual basis, to its customers and to the State Energy Resources Conservation and Development Commission, the following:~~

~~(1) Expenditures of public goods funds collected pursuant to Section 385 for eligible renewable energy resource development.~~

1 Reports shall contain a description of programs, expenditures, and
2 expected or actual results.

3 ~~(2) The resource mix used to serve its customers by fuel type.~~
4 Reports shall contain the contribution of each type of renewable
5 energy resource with separate categories for those fuels that are
6 eligible renewable energy resources as defined in Section 399.12,
7 except that the electricity is delivered to the local publicly owned
8 electric utility and not a retail seller. Electricity shall be reported
9 as having been delivered to the local publicly owned electric utility
10 from an eligible renewable energy resource when the electricity
11 would qualify for compliance with the renewables portfolio
12 standard if it were delivered to a retail seller.

13 ~~(3) The utility's status in implementing a renewables portfolio~~
14 ~~standard pursuant to subdivision (a) and the utility's progress~~
15 ~~toward attaining the standard following implementation.~~

16 *SEC. 10. Section 399.2.5 of the Public Utilities Code is*
17 *amended to read:*

18 399.2.5. (a) Notwithstanding ~~any other provision in~~ Sections
19 1001 to 1013, inclusive, an application of an electrical corporation
20 for a certificate authorizing the construction of new transmission
21 facilities ~~shall be deemed to be~~ *is* necessary to the provision of
22 electric service for purposes of ~~any determination made under~~
23 Section 1003 if the commission finds that the new facility is
24 *reasonably necessary or appropriate* to facilitate achievement of
25 ~~the renewable power goals~~ *renewables portfolio standard*
26 established in Article 16 (commencing with Section 399.11).

27 (b) With respect to a transmission facility described in
28 subdivision (a), the commission shall take all feasible actions to
29 ensure that the transmission rates established by the Federal Energy
30 Regulatory Commission are fully reflected in any retail rates
31 established by the commission. These actions shall include, ~~but~~
32 ~~are not limited to~~ *all of the following*:

33 (1) Making findings, where supported by an evidentiary record,
34 that those transmission facilities provide benefit to the transmission
35 network and are *reasonably necessary or appropriate* to facilitate
36 the achievement of the renewables portfolio standard established
37 in Article 16 (commencing with Section 399.11).

38 (2) Directing the utility to which the generator will be
39 interconnected, where the direction is not preempted by federal

1 law, to seek the recovery through general transmission rates of the
2 costs associated with the transmission facilities.

3 (3) Asserting the positions described in paragraphs (1) and (2)
4 to the Federal Energy Regulatory Commission in appropriate
5 proceedings.

6 ~~(4) Allowing~~ *Providing assurance, prior to a determination of*
7 *rate recovery by the Federal Energy Regulatory Commission*
8 *(FERC) of those costs that are subject to FERC jurisdiction, of*
9 *the eligibility for recovery in retail rates of any increase in*
10 *transmission costs incurred by an electrical corporation resulting*
11 *from the construction of the transmission facilities that are not*
12 *approved for recovery in transmission rates by the Federal Energy*
13 *Regulatory Commission after the commission determines that the*
14 *costs were prudently incurred in accordance with subdivision (a)*
15 *of Section 454.*

16 *(5) Allowing recovery in retail rates of any increase in*
17 *transmission costs if the FERC does not approve recovery of those*
18 *costs in the rates that are subject to FERC jurisdiction after the*
19 *commission determines that the costs were prudently incurred in*
20 *accordance with subdivision (a) of Section 454.*

21 *(c) (1) The commission shall approve an advice letter seeking*
22 *assurance of cost recovery pursuant to paragraph (4) of*
23 *subdivision (b), if either of the following is true:*

24 *(A) The new transmission line or facility is an upgrade of an*
25 *existing transmission line or facility, or is a new facility within*
26 *either an existing transmission right-of-way or a transmission*
27 *corridor zone that has been designated by the Energy Commission*
28 *pursuant to Section 25331 of the Public Resources Code, and is*
29 *consistent with the priority transmission projects in the conceptual*
30 *transmission plan in the final Phase 3 report produced by the*
31 *public collaborative stakeholder planning process known as the*
32 *Renewable Energy Transmission Initiative (RETI).*

33 *(B) Not less than 50 percent of the planned use for the capacity*
34 *of the new transmission line or facility is for interconnecting*
35 *eligible renewable energy resources, as determined by the*
36 *Independent System Operator or an electrical corporation, and*
37 *all interconnection requests for that transmission line or facility*
38 *are for generation facilities that comply with the greenhouse gases*
39 *emission performance standard established pursuant to Chapter*
40 *3 (commencing with Section 8340) of Division 4.1.*

(2) Approval of an advice letter pursuant to paragraph (1) is not binding upon the commission in making its determination whether or not to approve an application for a certificate of public convenience and necessity pursuant to Chapter 5 (commencing with Section 1001).

SEC. 11. Section 399.11 of the Public Utilities Code is amended to read:

399.11. The Legislature finds and declares all of the following:

(a) In order to attain a target of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, 2013, and 33 percent by December 31, 2020, and for the purposes of increasing the diversity, reliability, public health, and environmental benefits of the energy mix, *reducing emissions of greenhouse gases, and promoting economic development* it is the intent of the Legislature that the commission and the ~~State Energy Resources Conservation and Development~~ Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the ~~State Energy Resources Conservation and Development~~ Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(e) New and modified electric transmission facilities ~~may~~ will be necessary to facilitate the state achieving its renewables portfolio standard targets.

(f) (1) Delivering genuine renewable electricity to California end-use customers is necessary to improve California's air quality

1 and public health, and California end-use customers may be paying
2 higher rates to achieve the procurement requirements of this
3 article. This delivered electricity may be generated anywhere in
4 the interconnected grid that includes many states, and areas of
5 both Canada and Mexico.

6 (2) The definition of “delivered” and “delivery” requires
7 generating resources located outside of California, but able to
8 deliver that electricity to California end-use customers, to be
9 treated identically to generating resources located within the state,
10 without discrimination.

11 (3) California electrical corporations have already executed,
12 and the commission has approved, power purchase agreements
13 with eligible renewable energy resources located outside of
14 California that will deliver renewable electricity to California
15 end-use customers, and there are nearly 10,000 megawatts of
16 additional proposed renewable energy resources located outside
17 of California that are awaiting interconnection approval from the
18 Independent System Operator. All of the delivered resources should
19 count as eligible renewable energy resources under the renewables
20 portfolio standard procurement requirements.

21 SEC. 12. Section 399.12 of the Public Utilities Code is amended
22 to read:

23 399.12. For purposes of this article, the following terms have
24 the following meanings:

25 (a) “Conduit hydroelectric facility” means a facility for the
26 generation of electricity that uses only the hydroelectric potential
27 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
28 manmade conduit that is operated to distribute water for a
29 beneficial use.

30 (b) “Delivered” and “delivery” ~~have the same meaning as~~
31 ~~provided in subdivision (a) of Section 25741 of the Public~~
32 ~~Resources Code~~ “delivery,” with respect to electricity, means ____.

33 (c) “Eligible renewable energy resource” means an electric
34 electrical generating facility that meets the definition of “in-state
35 renewable electricity” a “renewable electrical generation facility”
36 in Section 25741 of the Public Resources Code, subject to the
37 following limitations:

38 (1) (A) An existing small hydroelectric generation facility of
39 30 megawatts or less shall be eligible only if a retail seller or local
40 publicly owned electric utility owned or procured the electricity

1 from the facility as of December 31, 2005. *A small hydroelectric*
2 *generation unit with a nameplate capacity not exceeding 40*
3 *megawatts that is operated as part of a water supply or conveyance*
4 *system serving the jurisdiction of a local publicly owned electric*
5 *utility is an eligible renewable energy resource if the local publicly*
6 *owned electric utility owned or procured the electricity from the*
7 *facility as of December 31, 2005. A new hydroelectric facility is*
8 not an eligible renewable energy resource if it will cause an adverse
9 impact on instream beneficial uses or cause a change in the volume
10 or timing of streamflow.

11 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
12 facility of 30 megawatts or less that commenced operation before
13 January 1, 2006, is an eligible renewable energy resource. A
14 conduit hydroelectric facility of 30 megawatts or less that
15 commences operation after December 31, 2005, is an eligible
16 renewable energy resource so long as it does not cause an adverse
17 impact on instream beneficial uses or cause a change in the volume
18 or timing of streamflow.

19 (2) A facility engaged in the combustion of municipal solid
20 waste shall not be considered an eligible renewable resource unless
21 it is located in Stanislaus County and was operational prior to
22 September 26, 1996.

23 (d) “Procure” means ~~that to acquire through ownership or~~
24 ~~contract. For purposes of meeting the renewables portfolio~~
25 ~~standard procurement requirements, a retail seller or local publicly~~
26 ~~owned electric utility receives may procure either delivered~~
27 ~~electricity generated by an eligible renewable energy resource that~~
28 ~~it owns or for which it has entered into an electricity purchase~~
29 ~~agreement renewable energy credits associated with electricity~~
30 ~~generated, but not necessarily delivered by, an eligible renewable~~
31 ~~energy resource.~~ Nothing in this article is intended to imply that
32 the purchase of electricity from third parties in a wholesale
33 transaction is the preferred method of fulfilling a retail seller’s
34 obligation to comply with this article or the obligation of a local
35 publicly owned electric utility to meet its renewables portfolio
36 standard implemented pursuant to Section ~~387~~ 399.30.

37 (e) ~~“Renewables portfolio standard” means the specified~~
38 ~~percentage of electricity generated by eligible renewable energy~~
39 ~~resources that a retail seller is required to procure pursuant to this~~
40 ~~article or the obligation of a local publicly owned electric utility~~

1 ~~to meet its renewables portfolio standard implemented pursuant~~
2 ~~to Section 387.~~

3 (f)

4 (e) (1) “Renewable energy credit” means a certificate of proof
5 *associated with the generation of electricity from an eligible*
6 *renewable energy resource*, issued through the accounting system
7 established by the Energy Commission pursuant to Section ~~399.13~~
8 399.25, that one unit of electricity was generated ~~and delivered~~ by
9 an eligible renewable energy resource.

10 (2) “Renewable energy credit” includes all renewable and
11 environmental attributes associated with the production of
12 electricity from the eligible renewable energy resource, except for
13 an emissions reduction credit issued pursuant to Section 40709 of
14 the Health and Safety Code and any credits or payments associated
15 with the reduction of solid waste and treatment benefits created
16 by the utilization of biomass or biogas fuels.

17 (3) (A) No electricity generated by an eligible renewable energy
18 resource attributable to the use of nonrenewable fuels, beyond a
19 de minimis quantity, as determined by the Energy Commission
20 *for each renewable energy technology*, shall result in the creation
21 of a renewable energy credit.

22 (B) *No electricity generated by a small hydroelectric generation*
23 *facility shall result in the creation of a renewable energy credit*
24 *unless the facility meets the requirements of subparagraph (A) of*
25 *paragraph (1) of subdivision (c).*

26 (C) *No electricity generated by a conduit hydroelectric*
27 *generation facility shall result in the creation of a renewable*
28 *energy credit unless the facility meets the requirements of*
29 *subparagraph (B) of paragraph (1) of subdivision (c).*

30 (D) *No electricity generated by a facility engaged in the*
31 *combustion of municipal solid waste shall result in the creation*
32 *of a renewable energy credit unless the facility meets the*
33 *requirements of paragraph (2) of subdivision (c).*

34 (f) “Renewable energy public goods charge” means that portion
35 *of the nonbypassable system benefits charge required to be*
36 *collected to fund renewable energy pursuant to the Reliable*
37 *Electric Service Investments Act (Article 15 (commencing with*
38 *Section 399) of Chapter 2.3 of Part 1 of Division 1, for an electrical*
39 *corporation, and pursuant to Section 385 for a local publicly*
40 *owned electric utility.*

(g) “Renewables portfolio standard” means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller or a local publicly owned electric utility is required to procure pursuant to this article.

~~(g)~~

(h) “Retail seller” means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) “Retail seller” does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electric utility.

(i) “WECC” means the Western Electricity Coordinating Council of the North American Electric Reliability Corporation, or a successor to either corporation.

SEC. 13. Section 399.13 of the Public Utilities Code is amended and renumbered to read:

~~399.13.~~

399.25. The Energy Commission shall do all of the following:

1 (a) Certify eligible renewable energy resources that it determines
2 meet the criteria described in subdivision ~~(b)~~ (c) of Section 399.12.

3 (b) Design and implement an accounting system to verify
4 compliance with the renewables portfolio standard by retail sellers
5 *and local publicly owned electric utilities*, to ensure that electricity
6 generated by an eligible renewable energy resource is counted
7 only once for the purpose of meeting the renewables portfolio
8 standard of this state or any other state, to certify renewable energy
9 credits produced by eligible renewable energy resources, and to
10 verify retail product claims in this state or any other state. In
11 establishing the guidelines governing this accounting system, the
12 Energy Commission shall collect data from electricity market
13 participants that it deems necessary to verify compliance of retail
14 sellers *and local publicly owned electric utilities*, in accordance
15 with the requirements of this article and the California Public
16 Records Act (Chapter 3.5 (commencing with Section 6250) of
17 Division 7 of Title 1 of the Government Code). In seeking data
18 from electrical corporations, the Energy Commission shall request
19 data from the commission. The commission shall collect data from
20 electrical corporations and remit the data to the Energy
21 Commission within 90 days of the request.

22 (c) Establish a system for tracking and verifying renewable
23 energy credits that, through the use of independently audited data,
24 verifies the generation and delivery of electricity associated with
25 each renewable energy credit and protects against multiple counting
26 of the same renewable energy credit. The Energy Commission
27 shall consult with other western states and with the Western
28 Electricity Coordinating Council in the development of this system.

29 (d) Certify, for purposes of compliance with the ~~renewable~~
30 *renewables* portfolio standard requirements by a retail seller, the
31 eligibility of renewable energy credits associated with deliveries
32 of electricity by an eligible renewable energy resource to a local
33 publicly owned electric utility, if the Energy Commission
34 determines that *all of the following* conditions of Section 399.31
35 have been satisfied: *met*.

36 ~~(1) The local publicly owned electric utility that is procuring~~
37 ~~the electricity is in compliance with the requirements of Section~~
38 ~~387.~~

39 ~~(2) The local publicly owned electric utility has established an~~
40 ~~annual renewables portfolio standard target comparable to those~~

~~1 applicable to an electrical corporation, is procuring sufficient
2 eligible renewable energy resources to satisfy the targets, and will
3 not fail to satisfy the targets in the event that the renewable energy
4 credit is sold to another retail seller.~~

5 *SEC. 14. Section 399.13 is added to the Public Utilities Code,*
6 *to read:*

7 *399.13. (a) (1) The commission shall direct each electrical*
8 *corporation to annually prepare a renewable energy procurement*
9 *plan that includes the matter in paragraph (5), to satisfy its*
10 *obligations under the renewables portfolio standard. To the extent*
11 *feasible, this procurement plan shall be proposed, reviewed, and*
12 *adopted by the commission as part of, and pursuant to, a general*
13 *procurement plan process. The commission shall require each*
14 *electrical corporation to review and update its renewable energy*
15 *procurement plan as it determines to be necessary.*

16 *(2) Every electrical corporation that owns electrical*
17 *transmission facilities shall annually prepare, as part of the*
18 *Federal Energy Regulatory Commission Order 890 process, and*
19 *submit to the commission, a report identifying any electrical*
20 *transmission facility, upgrade, or enhancement that is reasonably*
21 *necessary to achieve the renewable energy resources procurement*
22 *requirements of this article. Each report shall look forward at*
23 *least five years and, to ensure that adequate investments are made*
24 *in a timely manner, shall include a preliminary schedule when an*
25 *application for a certificate of public convenience and necessity*
26 *will be made, pursuant to Chapter 5 (commencing with Section*
27 *1001), for any electrical transmission facility identified as being*
28 *reasonably necessary to achieve the renewable energy resources*
29 *procurement requirements of this article. Each electrical*
30 *corporation that owns electrical transmission facilities shall ensure*
31 *that project specific interconnection studies are completed in a*
32 *timely manner.*

33 *(3) The commission shall direct each retail seller to prepare*
34 *and submit an annual compliance report that includes all of the*
35 *following:*

36 *(A) The current status and progress made during the prior year*
37 *toward procurement of eligible renewable energy resources as a*
38 *percentage of retail sales, including, if applicable, the status of*
39 *any necessary siting and permitting approvals from federal, state,*
40 *and local agencies for those in-state eligible renewable energy*

1 *resources procured by the retail seller; procurement of eligible*
2 *renewable energy resources located outside the state and within*
3 *the WECC, and procurement of renewable energy credits.*

4 *(B) If the retail seller is an electrical corporation, the current*
5 *status and progress made during the prior year toward*
6 *construction of, and upgrades to, transmission and distribution*
7 *facilities and other electrical system components it owns to*
8 *interconnect eligible renewable energy resources and to deliver*
9 *the electricity generated by those resources to load, including the*
10 *status of planning, siting, and permitting transmission facilities*
11 *by federal, state, and local agencies.*

12 *(C) Recommendations to remove impediments to making*
13 *progress toward achieving the renewable energy resources*
14 *procurement requirements established pursuant to this article.*

15 *(4) The commission shall adopt, by rulemaking, all of the*
16 *following:*

17 *(A) A process that provides criteria for the rank ordering and*
18 *selection of least-cost and best-fit eligible renewable energy*
19 *resources to comply with the California Renewables Portfolio*
20 *Standard Program obligations on a total cost basis. This process*
21 *shall take into account all of the following:*

22 *(i) Estimates of indirect costs associated with needed*
23 *transmission investments and ongoing electrical corporation*
24 *expenses resulting from integrating and operating eligible*
25 *renewable energy resources.*

26 *(ii) The cost impact of procuring the eligible renewable energy*
27 *resources on the electrical corporation's electricity portfolio.*

28 *(iii) The viability of the project to construct and reliably operate*
29 *the eligible renewable energy resource, including the developer's*
30 *experience, the feasibility of the technology used to generate*
31 *electricity, and the risk that the facility will not be built, or that*
32 *construction will be delayed, with the result that electricity will*
33 *not be delivered as required by the contract.*

34 *(B) Rules permitting retail sellers to apply excess procurement*
35 *in one year to subsequent years.*

36 *(C) Standard terms and conditions to be used by all electrical*
37 *corporations in contracting for eligible renewable energy*
38 *resources, including performance requirements for renewable*
39 *generators. A contract for the purchase of electricity generated*
40 *by an eligible renewable energy resource shall, at a minimum,*

1 include the renewable energy credits associated with all electricity
2 generation specified under the contract. The standard terms and
3 conditions shall include the requirement that, no later than six
4 months after the commission's approval of an electricity purchase
5 agreement entered into pursuant to this article, the following
6 information about the agreement shall be disclosed by the
7 commission: party names, resource type, project location, and
8 project capacity.

9 (D) An appropriate minimum margin of procurement above the
10 minimum procurement level necessary to comply with the
11 renewables portfolio standard to mitigate the risk that renewable
12 projects planned or under contract are delayed or canceled.
13 Nothing in this paragraph shall preclude an electrical corporation
14 from voluntarily proposing a margin of procurement above the
15 appropriate minimum margin established by the commission.

16 (5) Consistent with the goal of increasing California's reliance
17 on eligible renewable energy resources, the renewable energy
18 procurement plan submitted by an electrical corporation shall
19 include all of the following:

20 (A) An assessment of annual or multiyear portfolio supplies and
21 demand to determine the optimal mix of eligible renewable energy
22 resources with deliverability characteristics that may include
23 peaking, dispatchable, baseload, firm, and as-available capacity.

24 (B) Potential compliance delays related to the conditions
25 described in paragraph (4) of subdivision (b) of Section 399.15.

26 (C) A bid solicitation setting forth the need for eligible
27 renewable energy resources of each deliverability characteristic,
28 required online dates, and locational preferences, if any.

29 (D) A status update on the development schedule of all eligible
30 renewable energy resources currently under contract.

31 (E) Consideration of mechanisms for price adjustments
32 associated with the costs of key components for eligible renewable
33 energy resource projects with online dates more than 24 months
34 after the date of contract execution.

35 (F) An assessment of the risk that an eligible renewable energy
36 resource will not be built, or that construction will be delayed,
37 with the result that electricity will not be delivered as required by
38 the contract.

39 (6) In soliciting and procuring eligible renewable energy
40 resources, each electrical corporation shall offer contracts of no

1 *less than 10 years in duration, unless the commission approves of*
2 *a contract of shorter duration.*

3 *(7) In soliciting and procuring eligible renewable energy*
4 *resources for California-based projects, each electrical*
5 *corporation shall give preference to renewable energy projects*
6 *that provide environmental and economic benefits to communities*
7 *afflicted with poverty or high unemployment, or that suffer from*
8 *high emission levels of toxic air contaminants, criteria air*
9 *pollutants, and greenhouse gases.*

10 *(b) A retail seller may enter into a combination of long- and*
11 *short-term contracts for delivery of electricity and associated*
12 *renewable energy credits. The commission may authorize a retail*
13 *seller to enter into a contract of less than 10 years' duration with*
14 *an eligible renewable energy resource, if the commission has*
15 *established, for each retail seller, minimum quantities of eligible*
16 *renewable energy resources to be procured through contracts of*
17 *at least 10 years' duration.*

18 *(c) The commission shall review and accept, modify, or reject*
19 *each electrical corporation's renewable energy resource*
20 *procurement plan prior to the commencement of renewable energy*
21 *procurement pursuant to this article by an electrical corporation.*

22 *(d) Unless previously preapproved by the commission, an*
23 *electrical corporation shall submit a contract for the generation*
24 *of an eligible renewable energy resource to the commission for*
25 *review and approval consistent with an approved renewable energy*
26 *resource procurement plan. If the commission determines that the*
27 *bid prices are elevated due to a lack of effective competition among*
28 *the bidders, the commission shall direct the electrical corporation*
29 *to renegotiate the contracts or conduct a new solicitation.*

30 *(e) The commission shall establish milestones in the development*
31 *of the project to evaluate the potential for compliance with the*
32 *adopted renewable energy resource procurement plan and a set*
33 *of actions that will occur as a result of not meeting those*
34 *milestones. These actions may include, but shall not be limited to,*
35 *determining a cure period for failure to meet milestones, a suspense*
36 *period on the contract online date for events beyond the*
37 *developer's control that cause a failure to meet milestones,*
38 *allowing other developers that are prepared to go forward to move*
39 *ahead of suspended contracts, and the forfeiture of deposits.*

1 (f) If an electrical corporation fails to comply with a commission
2 order adopting a renewable energy resource procurement plan,
3 the commission shall exercise its authority pursuant to Section
4 2113 to require compliance. The commission shall enforce
5 comparable penalties on any retail seller that is not an electrical
6 corporation that fails to meet the procurement targets established
7 pursuant to Section 399.15.

8 (g) (1) The commission may authorize a procurement entity to
9 enter into contracts on behalf of customers of a retail seller for
10 deliveries of eligible renewable energy resources to satisfy the
11 retail seller's renewables portfolio standard procurement
12 requirements. The commission may not require any person or
13 corporation to act as a procurement entity or require any party
14 to purchase eligible renewable energy resources from a
15 procurement entity.

16 (2) Subject to review and approval by the commission, the
17 procurement entity shall be permitted to recover reasonable
18 administrative and procurement costs through the retail rates of
19 end-use customers that are served by the procurement entity and
20 are directly benefiting from the procurement of eligible renewable
21 energy resources.

22 (h) Procurement and administrative costs associated with
23 contracts entered into by an electrical corporation for eligible
24 renewable energy resources pursuant to this article and approved
25 by the commission shall be deemed reasonable and shall be
26 recoverable in rates.

27 (i) Construction, alteration, demolition, installation, and repair
28 work on an eligible renewable energy resource that receives
29 production incentives pursuant to Section 25742 of the Public
30 Resources Code, including work performed to qualify, receive, or
31 maintain production incentives are "public works" for the purposes
32 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
33 2 of the Labor Code.

34 SEC. 15. Section 399.14 of the Public Utilities Code is
35 repealed.

36 ~~399.14. (a) (1) The commission shall direct each electrical~~
37 ~~corporation to prepare a renewable energy procurement plan that~~
38 ~~includes the matter in paragraph (3), to satisfy its obligations under~~
39 ~~the renewables portfolio standard. To the extent feasible, this~~
40 ~~procurement plan shall be proposed, reviewed, and adopted by the~~

1 ~~commission as part of, and pursuant to, a general procurement~~
2 ~~plan process. The commission shall require each electrical~~
3 ~~corporation to review and update its renewable energy procurement~~
4 ~~plan as it determines to be necessary.~~

5 ~~(2) The commission shall adopt, by rulemaking, all of the~~
6 ~~following:~~

7 ~~(A) A process for determining market prices pursuant to~~
8 ~~subdivision (c) of Section 399.15. The commission shall make~~
9 ~~specific determinations of market prices after the closing date of~~
10 ~~a competitive solicitation conducted by an electrical corporation~~
11 ~~for eligible renewable energy resources.~~

12 ~~(B) A process that provides criteria for the rank ordering and~~
13 ~~selection of least-cost and best-fit eligible renewable energy~~
14 ~~resources to comply with the annual California Renewables~~
15 ~~Portfolio Standard Program obligations on a total cost basis. This~~
16 ~~process shall consider estimates of indirect costs associated with~~
17 ~~needed transmission investments and ongoing utility expenses~~
18 ~~resulting from integrating and operating eligible renewable energy~~
19 ~~resources.~~

20 ~~(C) (i) Flexible rules for compliance, including rules permitting~~
21 ~~retail sellers to apply excess procurement in one year to subsequent~~
22 ~~years or inadequate procurement in one year to no more than the~~
23 ~~following three years. The flexible rules for compliance shall apply~~
24 ~~to all years, including years before and after a retail seller procures~~
25 ~~at least 20 percent of total retail sales of electricity from eligible~~
26 ~~renewable energy resources.~~

27 ~~(ii) The flexible rules for compliance shall address situations~~
28 ~~where, as a result of insufficient transmission, a retail seller is~~
29 ~~unable to procure eligible renewable energy resources sufficient~~
30 ~~to satisfy the requirements of this article. Any rules addressing~~
31 ~~insufficient transmission shall require a finding by the commission~~
32 ~~that the retail seller has undertaken all reasonable efforts to do all~~
33 ~~of the following:~~

34 ~~(I) Utilize flexible delivery points.~~

35 ~~(II) Ensure the availability of any needed transmission capacity.~~

36 ~~(III) If the retail seller is an electric corporation, to construct~~
37 ~~needed transmission facilities.~~

38 ~~(IV) Nothing in this subparagraph shall be construed to revise~~
39 ~~any portion of Section 454.5.~~

~~(D) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.~~

~~(3) Consistent with the goal of procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include all of the following:~~

~~(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.~~

~~(B) Provisions for employing available compliance flexibility mechanisms established by the commission.~~

~~(C) A bid solicitation setting forth the need for eligible renewable energy resources of each deliverability characteristic, required online dates, and locational preferences, if any.~~

~~(4) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years in duration, unless the commission approves of a contract of shorter duration.~~

~~(5) In soliciting and procuring eligible renewable energy resources, each electrical corporation may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.~~

~~(b) The commission may authorize a retail seller to enter into a contract of less than 10 years' duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least 10 years' duration or from new facilities commencing commercial operations on or after January 1, 2005.~~

1 ~~(e) The commission shall review and accept, modify, or reject~~
2 ~~each electrical corporation's renewable energy procurement plan~~
3 ~~prior to the commencement of renewable procurement pursuant~~
4 ~~to this article by an electrical corporation.~~

5 ~~(d) The commission shall review the results of an eligible~~
6 ~~renewable energy resources solicitation submitted for approval by~~
7 ~~an electrical corporation and accept or reject proposed contracts~~
8 ~~with eligible renewable energy resources based on consistency~~
9 ~~with the approved renewable energy procurement plan. If the~~
10 ~~commission determines that the bid prices are elevated due to a~~
11 ~~lack of effective competition among the bidders, the commission~~
12 ~~shall direct the electrical corporation to renegotiate the contracts~~
13 ~~or conduct a new solicitation.~~

14 ~~(e) If an electrical corporation fails to comply with a commission~~
15 ~~order adopting a renewable energy procurement plan, the~~
16 ~~commission shall exercise its authority pursuant to Section 2113~~
17 ~~to require compliance. The commission shall enforce comparable~~
18 ~~penalties on any other retail seller that fails to meet annual~~
19 ~~procurement targets established pursuant to Section 399.15.~~

20 ~~(f) (1) The commission may authorize a procurement entity to~~
21 ~~enter into contracts on behalf of customers of a retail seller for~~
22 ~~deliveries of eligible renewable energy resources to satisfy annual~~
23 ~~renewables portfolio standard obligations. The commission may~~
24 ~~not require any person or corporation to act as a procurement entity~~
25 ~~or require any party to purchase eligible renewable energy~~
26 ~~resources from a procurement entity.~~

27 ~~(2) Subject to review and approval by the commission, the~~
28 ~~procurement entity shall be permitted to recover reasonable~~
29 ~~administrative and procurement costs through the retail rates of~~
30 ~~end-use customers that are served by the procurement entity and~~
31 ~~are directly benefiting from the procurement of eligible renewable~~
32 ~~energy resources.~~

33 ~~(g) Procurement and administrative costs associated with~~
34 ~~long-term contracts entered into by an electrical corporation for~~
35 ~~eligible renewable energy resources pursuant to this article and~~
36 ~~approved by the commission shall be deemed reasonable per se,~~
37 ~~and shall be recoverable in rates.~~

38 ~~(h) Construction, alteration, demolition, installation, and repair~~
39 ~~work on an eligible renewable energy resource that receives~~
40 ~~production incentives pursuant to Section 25742 of the Public~~

Resources Code, including work performed to qualify, receive, or maintain production incentives is “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 16. Section 399.14 is added to the Public Utilities Code, to read:

399.14. (a) (1) An electrical corporation may, pursuant to Chapter 5 (commencing with Section 1001), and in order to meet its renewables portfolio standard procurement requirements, apply to the commission for approval to construct, own, and operate an eligible renewable energy resource.

(2) If the proposed eligible renewable energy resource complies with the requirements of subdivision (b), the commission shall approve an application filed pursuant to paragraph (1), until the commission has approved applications for eligible renewable energy resources for the electrical corporation that, when constructed and operating, will provide 8.25 percent of the electrical corporation’s anticipated retail sales by December 31, 2020.

(3) The commission may approve additional applications for eligible renewable energy resources once the commission has approved sufficient applications for eligible renewable energy resources for the electrical corporation that, when constructed and operating, will provide 8.25 percent of the electrical corporation’s anticipated retail sales by December 31, 2020.

(b) The commission shall not approve any application by an electrical corporation pursuant to subdivision (a) unless both of the following conditions are met:

(1) The eligible renewable energy resource utilizes a viable technology at a reasonable cost.

(2) The eligible renewable energy resource provides comparable or superior value to ratepayers when compared to then recent or contemporaneous solicitations for generation provided by eligible renewable energy resources.

(c) In approving any application by an electrical corporation for approval to construct, own, and operate an eligible renewable energy resource, the commission shall apply traditional cost-of-service ratemaking, including reasonableness review after construction is completed.

1 *SEC. 17. Section 399.15 of the Public Utilities Code is*
2 *repealed.*

3 ~~399.15. (a) In order to fulfill unmet long-term resource needs,~~
4 ~~the commission shall establish a renewables portfolio standard~~
5 ~~requiring all electrical corporations to procure a minimum quantity~~
6 ~~of electricity generated by eligible renewable energy resources as~~
7 ~~a specified percentage of total kilowatthours sold to their retail~~
8 ~~end-use customers each calendar year, subject to limits on the total~~
9 ~~amount of costs expended above the market prices determined in~~
10 ~~subdivision (c), to achieve the targets established under this article.~~

11 ~~(b) The commission shall implement annual procurement targets~~
12 ~~for each retail seller as follows:~~

13 ~~(1) Each retail seller shall, pursuant to subdivision (a), increase~~
14 ~~its total procurement of eligible renewable energy resources by at~~
15 ~~least an additional 1 percent of retail sales per year so that 20~~
16 ~~percent of its retail sales are procured from eligible renewable~~
17 ~~energy resources no later than December 31, 2010. A retail seller~~
18 ~~with 20 percent of retail sales procured from eligible renewable~~
19 ~~energy resources in any year shall not be required to increase its~~
20 ~~procurement of renewable energy resources in the following year.~~

21 ~~(2) For purposes of setting annual procurement targets, the~~
22 ~~commission shall establish an initial baseline for each retail seller~~
23 ~~based on the actual percentage of retail sales procured from eligible~~
24 ~~renewable energy resources in 2001, and to the extent applicable,~~
25 ~~adjusted going forward pursuant to Section 399.12.~~

26 ~~(3) Only for purposes of establishing these targets, the~~
27 ~~commission shall include all electricity sold to retail customers by~~
28 ~~the Department of Water Resources pursuant to Section 80100 of~~
29 ~~the Water Code in the calculation of retail sales by an electrical~~
30 ~~corporation.~~

31 ~~(4) In the event that a retail seller fails to procure sufficient~~
32 ~~eligible renewable energy resources in a given year to meet any~~
33 ~~annual target established pursuant to this subdivision, the retail~~
34 ~~seller shall procure additional eligible renewable energy resources~~
35 ~~in subsequent years to compensate for the shortfall, subject to the~~
36 ~~limitation on costs for electrical corporations established pursuant~~
37 ~~to subdivision (d).~~

38 ~~(c) The commission shall establish a methodology to determine~~
39 ~~the market price of electricity for terms corresponding to the length~~

~~1 of contracts with eligible renewable energy resources, in
2 consideration of the following:~~

~~3 (1) The long-term market price of electricity for fixed price
4 contracts, determined pursuant to an electrical corporation's general
5 procurement activities as authorized by the commission.~~

~~6 (2) The long-term ownership, operating, and fixed-price fuel
7 costs associated with fixed-price electricity from new generating
8 facilities.~~

~~9 (3) The value of different products including baseload, peaking,
10 and as-available electricity.~~

~~11 (d) The commission shall establish, for each electrical
12 corporation, a limitation on the total costs expended above the
13 market prices determined in subdivision (c) for the procurement
14 of eligible renewable energy resources to achieve the annual
15 procurement targets established under this article.~~

~~16 (1) The cost limitation shall be equal to the amount of funds
17 transferred to each electrical corporation by the Energy
18 Commission pursuant to subdivision (b) of Section 25743 of the
19 Public Resources Code and the 51.5 percent of the funds which
20 would have been collected through January 1, 2012, from the
21 customers of the electrical corporation based on the renewable
22 energy public goods charge in effect as of January 1, 2007.~~

~~23 (2) The above-market costs of a contract selected by an electrical
24 corporation may be counted toward the cost limitation if all of the
25 following conditions are satisfied:~~

~~26 (A) The contract has been approved by the commission and was
27 selected through a competitive solicitation pursuant to the
28 requirements of subdivision (d) of Section 399.14.~~

~~29 (B) The contract covers a duration of no less than 10 years.~~

~~30 (C) The contracted project is a new or repowered facility
31 commencing commercial operations on or after January 1, 2005.~~

~~32 (D) No purchases of renewable energy credits may be eligible
33 for consideration as an above-market cost.~~

~~34 (E) The above-market costs of a contract do not include any
35 indirect expenses including imbalance energy charges, sale of
36 excess energy, decreased generation from existing resources, or
37 transmission upgrades.~~

~~38 (3) If the cost limitation for an electrical corporation is
39 insufficient to support the total costs expended above the market
40 prices determined in subdivision (c) for the procurement of eligible~~

1 renewable energy resources satisfying the conditions of paragraph
2 (2), the commission shall allow the electrical corporation to limit
3 its procurement to the quantity of eligible renewable energy
4 resources that can be procured at or below the market prices
5 established in subdivision (c).

6 ~~(4) Nothing in this section prevents an electrical corporation~~
7 ~~from voluntarily proposing to procure eligible renewable energy~~
8 ~~resources at above-market prices that are not counted toward the~~
9 ~~cost limitation. Any voluntary procurement involving above-market~~
10 ~~costs shall be subject to commission approval prior to the expense~~
11 ~~being recovered in rates.~~

12 ~~(e) The establishment of a renewables portfolio standard shall~~
13 ~~not constitute implementation by the commission of the federal~~
14 ~~Public Utility Regulatory Policies Act of 1978 (Public Law~~
15 ~~95-617).~~

16 ~~(f) The commission shall consult with the Energy Commission~~
17 ~~in calculating market prices under subdivision (c) and establishing~~
18 ~~other renewables portfolio standard policies.~~

19 *SEC. 18. Section 399.15 is added to the Public Utilities Code,*
20 *to read:*

21 *399.15. (a) In order to fulfill unmet long-term resource needs,*
22 *the commission shall establish a renewables portfolio standard*
23 *requiring all retail sellers to procure a minimum quantity of*
24 *electricity generated by eligible renewable energy resources as a*
25 *specified percentage of total kilowatthours sold to their retail*
26 *end-use customers each compliance period to achieve the targets*
27 *established under this article.*

28 *(b) The commission shall implement renewables portfolio*
29 *standard procurement requirements only as follows:*

30 *(1) Each retail seller shall procure the following minimum*
31 *percentages of eligible renewable energy resources in the following*
32 *years, and continue to procure at least those percentages in*
33 *subsequent years:*

34 *(A) Until December 31, 2012, the same percentage as actually*
35 *achieved by the retail seller during 2009.*

36 *(B) Twenty percent by December 31, 2013.*

37 *(C) Twenty-five percent by December 31, 2016.*

38 *(D) Thirty-three percent by December 31, 2020.*

39 *(2) A retail seller with 33 percent of its retail sales of electricity*
40 *procured from eligible renewable energy resources in any year*

1 shall not be required to increase its procurement of renewable
2 energy resources, except to the extent required to maintain a 33
3 percent renewables portfolio standard. A retail seller may
4 voluntarily increase its procurement of eligible renewable energy
5 resources beyond the renewables portfolio standard procurement
6 requirements.

7 (3) Only for purposes of establishing the renewables portfolio
8 standard procurement requirements of paragraph (1), the
9 commission shall include all electricity sold to retail customers
10 by the Department of Water Resources pursuant to Section 80100
11 of the Water Code in the calculation of retail sales by an electrical
12 corporation.

13 (4) The commission may only allow a retail seller for a
14 maximum of two years per request to delay compliance with a
15 renewables portfolio standard procurement requirement
16 established pursuant to subparagraph (B) or (C) of paragraph
17 (1), if it finds that the retail seller has demonstrated that either of
18 the following conditions will prevent timely compliance:

19 (A) There is inadequate transmission capacity to allow for
20 sufficient electricity to be delivered from proposed eligible
21 renewable energy resource projects using the current operational
22 protocols of the Independent System Operator (ISO). The
23 commission shall consult with the ISO in making its findings
24 relative to the existence of this condition. In making its findings
25 relative to the existence of this condition with respect to a retail
26 seller that owns transmission lines, the commission shall consider
27 both of the following:

28 (i) Whether the retail seller has undertaken all reasonable
29 measures to develop and construct new transmission lines or
30 upgrades to existing lines in a timely fashion.

31 (ii) Whether the retail seller has taken all reasonable
32 operational measures, as verified by the ISO, to maximize
33 deliveries of electricity from eligible renewable energy resources
34 in advance of transmission availability.

35 (B) Unanticipated permitting, interconnection, or other delays
36 for procured eligible renewable energy resource projects, or there
37 is an insufficient supply of delivered electricity from eligible
38 renewable energy resources available to the retail seller. In making
39 this finding, the commission shall consider whether the retail seller
40 has prudently managed portfolio risks, relied on sufficient viable

1 *projects, sought to develop its own eligible renewable energy*
2 *resources, and procured an appropriate minimum margin of*
3 *procurement above the minimum procurement level necessary to*
4 *comply with the renewables portfolio standard to compensate for*
5 *foreseeable delays or insufficient supply.*

6 *(5) Prior to granting a delay pursuant to paragraph (4), the*
7 *commission shall require a retail seller to demonstrate that it has*
8 *presented evidence that it has made material progress in reducing*
9 *its compliance deficit and has taken all reasonable measures*
10 *consistent with this article to procure cost-effective distributed*
11 *generation and renewable energy credits consistent with the*
12 *restrictions in paragraph (6) of subdivision (a) of Section 399.21.*

13 *(6) The commission may not approve any request to delay a*
14 *compliance obligation for which it has already granted a delay*
15 *unless a retail seller presents evidence that it has made material*
16 *progress in reducing its compliance deficiency and has identified*
17 *and taken all reasonable actions under its control to pursue*
18 *additional options to comply with the delayed interim procurement*
19 *obligation and remove impediments that are related to its delay.*

20 *(7) The commission may not authorize any delay in achieving*
21 *the 33 percent by December 31, 2020, renewables portfolio*
22 *standard procurement requirement of subparagraph (D) of*
23 *paragraph (1).*

24 *(8) If a retail seller fails to procure sufficient eligible renewable*
25 *energy resources to comply with a renewables portfolio standard*
26 *procurement requirement and fails to obtain an order from the*
27 *commission authorizing a compliance delay pursuant to paragraph*
28 *(4), the commission shall exercise its authority pursuant to Section*
29 *2113.*

30 *(c) The commission shall establish a methodology to determine*
31 *the market price of electricity for terms corresponding to the length*
32 *of contracts with eligible renewable energy resources, in*
33 *consideration of the long-term ownership, operating, and*
34 *fixed-price fuel costs associated with fixed-price electricity from*
35 *new generating facilities. The methodology shall reflect all of the*
36 *following:*

37 *(1) The value of different products including baseload, peaking,*
38 *and as-available electricity.*

39 *(2) All current and anticipated environmental compliance costs,*
40 *including mitigation of emissions of greenhouse gases and air*

1 *pollution offsets associated with the operation of new generating*
2 *facilities.*

3 *(d) (1) The commission shall establish a limitation for each*
4 *electrical corporation on the expenditures above the market costs*
5 *determined in subdivision (c) for the procurement of all eligible*
6 *renewable energy resources that are used to comply with the*
7 *electrical corporation's renewables portfolio standard. The cost*
8 *limitation shall equal 6 percent of the total bundled electric*
9 *revenues recorded by the electrical corporation in 2008 multiplied*
10 *by the number of years remaining until 2020. Total bundled electric*
11 *revenues shall include revenues collected by the electrical*
12 *corporation on behalf of the Department of Water Resources for*
13 *procurement activities conducted pursuant to Division 27*
14 *(commencing with Section 80000) of the Water Code.*

15 *(2) The calculation of the above-market costs shall include all*
16 *procurement of eligible renewable energy resources that are used*
17 *to comply with the electrical corporation's renewables portfolio*
18 *standard that are submitted for approval to the commission after*
19 *January 1, 2011.*

20 *(3) The above-market costs of procurement do not include any*
21 *indirect expenses, including imbalance energy charges, sale of*
22 *excess energy, decreased generation from existing resources, or*
23 *transmission upgrades.*

24 *(4) Calculations of the above-market costs shall include, as a*
25 *reduction to the total above-market costs, procurement from*
26 *eligible renewable energy resources that are used to meet the*
27 *renewables portfolio standard procurement requirements*
28 *established pursuant to paragraph (1) of subdivision (b) that are*
29 *below the market prices determined in subdivision (c) for each*
30 *year.*

31 *(5) In calculating the limit on above-market costs established*
32 *in paragraph (1), the commission shall account for the potential*
33 *that some procured resources may be delayed or canceled.*

34 *(e) If the cost limitation for an electrical corporation is*
35 *insufficient to support the projected net above-market costs*
36 *identified in subdivision (d), the commission shall allow the*
37 *electrical corporation to refrain from entering into new contracts*
38 *or to construct facilities for that future year beyond the quantity*
39 *of eligible renewable energy resources that can be procured at or*
40 *below the market prices established in subdivision (c).*

1 (f) Notwithstanding subdivision (e), if an electrical corporation's
2 net annual above-market costs for a future year exceed the
3 electrical corporation's cost limitation, the electrical corporation
4 may voluntarily propose to procure eligible renewable energy
5 resources at above-market prices. Any voluntary procurement
6 under this paragraph shall be subject to commission approval
7 prior to the expense being recovered in rates.

8 (g) (1) The commission shall monitor the status of the cost
9 limitation for each electrical corporation in order to ensure
10 compliance with this article.

11 (2) If the commission determines that an electrical corporation
12 may exceed its cost limitation prior to achieving the renewables
13 portfolio standard procurement requirements, the commission
14 shall do all of the following within 60 days of making that
15 determination:

16 (A) Investigate and identify the reasons why the electrical
17 corporation may exceed its annual cost limitation.

18 (B) Identify those actions that can be taken to ensure that the
19 electrical corporation continues to comply with its renewables
20 portfolio standard procurement requirements.

21 (C) Notify the appropriate policy and fiscal committees of the
22 Legislature that the electrical corporation may exceed its cost
23 limitation, the reasons why the electrical corporation may exceed
24 its cost limitation, and those actions that may be taken by the
25 electrical corporation to comply with the renewables portfolio
26 standard procurement requirements.

27 (3) The commission shall examine mechanisms for mitigating
28 the potential impact of low fossil fuel prices on the cost limitation
29 of each electrical corporation and make recommendations to the
30 Legislature on any changes in law it identifies to mitigate those
31 impacts.

32 (h) The commission shall examine and adopt mechanisms to
33 limit the potential influence of the market prices established in
34 subdivision (c) on seller pricing and buyer contract selection.

35 (i) The establishment of a renewables portfolio standard shall
36 not constitute implementation by the commission of the federal
37 Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

38 (j) The commission shall consult with the Energy Commission
39 in establishing renewables portfolio standard policies.

1 SEC. 19. Section 399.16 of the Public Utilities Code is amended
2 and renumbered to read:

3 ~~399.16.~~

4 399.21 (a) The commission, by rule, ~~may~~ shall authorize the
5 use of renewable energy credits to satisfy the requirements of the
6 renewables portfolio standard procurement requirements
7 established pursuant to this article, subject to the following
8 conditions:

9 (1) Prior to authorizing any renewable energy credit to be used
10 toward satisfying ~~annual procurement targets~~ the renewables
11 portfolio standard procurement requirements, the commission and
12 the Energy Commission shall conclude that the tracking system
13 established pursuant to subdivision (c) of Section ~~399.13~~ 399.25,
14 is operational, is capable of independently verifying that the
15 electricity generated by an eligible renewable energy resource and
16 is delivered to the retail seller, and can ensure that renewable
17 energy credits shall not be double counted by any seller of
18 electricity within the service territory of the ~~Western Electricity~~
19 ~~Coordinating Council (WECC)~~ WECC.

20 (2) ~~A~~ Each renewable energy credit shall be counted only once
21 for compliance with the renewables portfolio standard of this state
22 or any other state, or for verifying retail product claims in this state
23 or any other state.

24 ~~(3) The electricity is delivered to a retail seller, the Independent~~
25 ~~System Operator, or a local publicly owned electric utility.~~

26 ~~(4)~~

27 (3) All revenues received by an electrical corporation for the
28 sale of a renewable energy credit shall be credited to the benefit
29 of ratepayers.

30 ~~(5)~~

31 (4) No renewable energy credits shall be created for electricity
32 generated pursuant to any electricity purchase contract with a retail
33 seller or a local publicly owned electric utility executed before
34 January 1, 2005, unless the contract contains explicit terms and
35 conditions specifying the ownership or disposition of those credits.
36 Deliveries under those contracts shall be tracked through the
37 accounting system described in subdivision (b) of Section ~~399.13~~
38 399.25 and included in the ~~baseline~~ quantity of eligible renewable
39 energy resources of the purchasing retail seller pursuant to Section
40 399.15.

1 ~~(6)~~

2 (5) No renewable energy credits shall be created for electricity
3 generated under any electricity purchase contract executed after
4 January 1, 2005, pursuant to the federal Public Utility Regulatory
5 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries
6 under the electricity purchase contracts shall be tracked through
7 the accounting system described in subdivision (b) of Section
8 399.12 and count toward the renewables portfolio standard
9 obligations of the purchasing retail seller.

10 ~~(7) The commission may limit the quantity of renewable energy~~
11 ~~credits that may be procured unbundled from electricity generation~~
12 ~~by any retail seller, to meet the requirements of this article.~~

13 ~~(8) No electrical corporation shall be obligated to procure~~
14 ~~renewable energy credits to satisfy the requirements of this article~~
15 ~~in the event that the total costs expended above the applicable~~
16 ~~market prices for the procurement of eligible renewable energy~~
17 ~~resources exceeds the cost limitation established pursuant to~~
18 ~~subdivision (d) of Section 399.15.~~

19 (6) *The use, by a retail seller, of renewable energy credits*
20 *associated with electricity that does not satisfy the delivery*
21 *requirements of subdivision (b) of Section 399.12 shall be limited*
22 *to 25 percent of the retail seller's renewables portfolio standard*
23 *procurement requirements.*

24 (7) *If a retail seller exceeds the 25-percent limitation of*
25 *paragraph (6) as a result of contracts executed prior to September*
26 *18, 2009, and if those contracts are approved by the commission,*
27 *the retail seller shall be allowed to fully use the renewable energy*
28 *credits toward meeting its renewables portfolio standard*
29 *procurement requirements through the original term of the*
30 *approved contracts, but may not procure additional renewable*
31 *energy credits associated with electricity that does not satisfy the*
32 *delivery requirements of subdivision (b) of Section 399.12. For a*
33 *local publicly owned electric utility acting pursuant to subdivision*
34 *(c) of Section 399.30, contract execution occurs on the date of*
35 *project approval by the utility's governing board or the board of*
36 *a joint powers authority of which the utility is a member and that*
37 *approval shall take the place of approval by the commission for*
38 *a retail seller.*

39 (8) *No renewable energy credit shall be eligible for compliance*
40 *with a renewables portfolio standard procurement requirement*

1 *after 18 months from the initial date of generation of the associated*
2 *electricity. A renewable energy credit is used for compliance when*
3 *the retail seller or local publicly owned electric utility irrevocably*
4 *retires the credit within the tracking system established pursuant*
5 *to subdivision (c) of Section 399.25.*

6 *(9) If an electrical corporation or local publicly owned electric*
7 *utility owns and operates eligible renewable energy resources*
8 *constructed after January 1, 2008, in its service territory or in the*
9 *service territory of another electrical corporation or local publicly*
10 *owned utility, it may use additional renewable energy credits*
11 *beyond those allowed by paragraphs (6) and (7) in an amount*
12 *authorized by this paragraph. The additional renewable energy*
13 *credits shall be equal to the average annual amount of delivered*
14 *electricity from the owned and operated eligible renewable energy*
15 *resources, or the forecast of the delivered electricity from the*
16 *resource after its construction has begun. Ownership of the*
17 *resources shall be obtained by the electrical corporation no later*
18 *than the time of commencement of commercial operation. The*
19 *maximum amount of additional renewable energy credits*
20 *authorized under this section shall not exceed 5 percent of the*
21 *electrical corporation's renewables portfolio standard procurement*
22 *requirements.*

23 ~~(9)~~

24 *(10) Any additional condition that the commission determines*
25 *is reasonable.*

26 *(b) The commission shall allow an electrical corporation to*
27 *recover the reasonable costs of purchasing renewable energy credits*
28 *in rates.*

29 *SEC. 20. Section 399.17 of the Public Utilities Code is amended*
30 *to read:*

31 *399.17. (a) Subject to the provisions of this section, the*
32 *requirements of this article apply to an electrical corporation with*
33 *60,000 or fewer customer accounts in California and that either*
34 *serves retail end-use customers outside California or that is located*
35 *in a control area that is not under the operational control of the*
36 *Independent System Operator and receives the majority of its*
37 *electrical requirements from generating facilities located outside*
38 *of California.*

39 *(b) For an electrical corporation with 60,000 or fewer customer*
40 *accounts in California and that either serves retail end-use*

1 customers outside California, *or that is located in a control area*
2 *that is not under the operational control of the Independent System*
3 *Operator and receives the majority of its electrical requirements*
4 *from generating facilities located outside of California*, an eligible
5 renewable energy resource includes a facility that is located outside
6 California, if the facility is connected to the ~~Western Electricity~~
7 ~~Coordinating Council (WECC)~~ WECC transmission system,
8 provided all of the following conditions are met:

9 (1) The electricity generated by the facility is procured by the
10 electrical corporation on behalf of its California customers, and is
11 not used to fulfill renewable energy procurement requirements in
12 other states.

13 (2) The electrical corporation participates in, and complies with,
14 the accounting system administered by the Energy Commission
15 pursuant to subdivision (b) of Section ~~399.13~~. 399.25.

16 (3) The Energy Commission verifies that the electricity
17 generated by the facility is eligible to meet the ~~annual~~ procurement
18 ~~targets requirements~~ of this article.

19 (c) The commission shall determine the ~~annual~~ procurement
20 ~~targets requirements~~ for an electrical corporation with 60,000 or
21 fewer customer accounts in California that serves retail end-use
22 customers outside California, as a specified percentage of total
23 kilowatthours sold by the electrical corporation to its retail end-use
24 customers in California in a calendar year.

25 (d) An electrical corporation with 60,000 or fewer customer
26 accounts in California that serves retail end-use customers outside
27 California, may use an integrated resource plan prepared in
28 compliance with the requirements of another state utility regulatory
29 commission, to fulfill the requirement to prepare a renewable
30 energy procurement plan pursuant to this article, provided the plan
31 meets the requirements of Sections 399.11, 399.12, 399.13, *or*
32 ~~399.14~~, and ~~399.14~~, 399.25, as modified by this section.

33 (e) Procurement and administrative costs associated with
34 long-term contracts entered into by an electrical corporation with
35 60,000 or fewer customer accounts in California that *either* serves
36 retail end-use customers outside California, *or that is located in a*
37 *control area that is not under the operational control of the*
38 *Independent System Operator and receives the majority of its*
39 *electrical requirements from generating facilities located outside*
40 *of California*, for eligible renewable energy resources pursuant to

1 this article, at or below the market price determined by the
2 commission pursuant to subdivision (c) of Section 399.15, shall
3 be deemed reasonable per se, and shall be recoverable in rates of
4 the electrical corporation's California customers, provided the
5 costs are not recoverable in rates in other states served by the
6 electrical corporation.

7 *SEC. 21. Section 399.18 is added to the Public Utilities Code,*
8 *to read:*

9 *399.18. The commission, in consultation with the Energy*
10 *Commission, shall report to the Legislature by January 1 of every*
11 *even-numbered year on all of the following:*

12 *(a) The progress and status of procurement activities by each*
13 *retail seller.*

14 *(b) The status of permitting and siting eligible renewable energy*
15 *resources and transmission facilities necessary to deliver the*
16 *electricity generated to load, including the time taken to permit*
17 *each eligible renewable energy resource and transmission line or*
18 *upgrade, explanations of failures to meet permitting milestones,*
19 *and recommendations for improvements to expedite permitting*
20 *and siting processes.*

21 *(c) The projected ability of each electrical corporation to meet*
22 *the renewables portfolio standard procurement requirements under*
23 *the cost limitations in subdivision (d) of Section 399.15 and any*
24 *recommendations for revisions of those cost limitations.*

25 *(d) Any barriers to, and policy recommendations for, achieving*
26 *the renewables portfolio standard pursuant to this article.*

27 *SEC. 22. Section 399.26 is added to the Public Utilities Code,*
28 *to read:*

29 *399.26. (a) In order for the state to meet the requirements of*
30 *the California Renewables Portfolio Standard Program,*
31 *substantially increased amounts of electricity generated by eligible*
32 *renewable energy resources must be integrated with, and*
33 *interconnected to, the transmission grid that is either owned by,*
34 *or under the operational control of, the local publicly owned*
35 *electric utilities and the transmission grid that is under the*
36 *operational control of the Independent System Operator.*

37 *(b) The Independent System Operator and the balancing*
38 *authority of each area in California shall do both of the following:*

39 *(1) Work cooperatively to integrate and interconnect eligible*
40 *renewable energy resources to the transmission grid by the most*

1 *efficient means possible with the goal of minimizing the impact*
2 *and cost of new transmission needed to meet both reliability needs*
3 *and the renewables portfolio standard procurement requirements.*

4 *(2) Accomplish the requirements of paragraph (1) in a manner*
5 *that respects the ownership, business, and dispatch models for*
6 *transmission facilities owned by electrical corporations, local*
7 *publicly owned electric utilities, joint powers agencies, and*
8 *merchant transmission companies.*

9 *(c) The Independent System Operator shall seek any approvals*
10 *from the Federal Energy Regulatory Commission that are*
11 *necessary to accomplish the goals and requirements of this article.*

12 *(d) In order to maintain electric service reliability and to*
13 *minimize the construction of fossil fuel electrical generation*
14 *capacity to support the integration of intermittent renewable*
15 *electrical generation into the electrical grid, by July 1, 2011, the*
16 *Energy Commission shall update its previously conducted studies*
17 *to determine the effective load carrying capacity of wind and solar*
18 *energy resources on the California electrical grid. The commission*
19 *shall use those effective load carrying capacity values in*
20 *establishing the contribution of wind and solar energy resources*
21 *toward meeting the resource adequacy requirements established*
22 *pursuant to Section 380.*

23 *SEC. 23. Section 399.30 is added to the Public Utilities Code,*
24 *to read:*

25 *399.30. (a) In order to fulfill unmet long-term generation*
26 *resource needs, each local publicly owned electric utility shall*
27 *adopt and implement a renewable energy resources procurement*
28 *plan that requires the utility to procure a minimum quantity of*
29 *electricity generated by eligible renewable energy resources,*
30 *including renewable energy credits, as a specified percentage of*
31 *total kilowatthours sold to the utility's retail end-use customers,*
32 *each calendar year, to achieve the targets of subdivision (b).*

33 *(b) The governing board shall implement procurement targets*
34 *for a local publicly owned electric utility that require the utility*
35 *to procure the following minimum percentages of eligible*
36 *renewable energy resources in the following years, and continue*
37 *to procure those percentages in subsequent years:*

38 *(1) Until December 31, 2012, the same percentage as actually*
39 *achieved by the utility in 2009.*

40 *(2) Twenty percent by December 31, 2013.*

1 (3) *Twenty-five percent by December 31, 2016.*

2 (4) *Thirty-three percent by December 31, 2020.*

3 (c) (1) *A local publicly owned electric utility may use renewable*
4 *energy credits associated with electricity generated, but not*
5 *necessarily delivered by, an eligible renewable energy resource,*
6 *to meet its renewables portfolio standard procurement*
7 *requirements to the same extent as permitted for a retail seller*
8 *pursuant to subdivision (a) of Section 399.21.*

9 (2) *A local publicly owned electric utility may adopt rules*
10 *permitting the utility to apply excess procurement in one year to*
11 *subsequent years in the same manner as allowed for retail sellers*
12 *pursuant to Section 399.13.*

13 (d) *The governing board of the local publicly owned electric*
14 *utility shall adopt a program for the enforcement of this article on*
15 *or before January 1, 2011. The program shall be adopted at a*
16 *publicly noticed meeting offering all interested parties an*
17 *opportunity to comment. Not less than 30 days' notice shall be*
18 *given to the public of any meeting held for purposes of adopting*
19 *the program. Not less than 10 days' notice shall be given to the*
20 *public before any meeting is held to make a substantive change to*
21 *the program.*

22 (e) (1) *Each local publicly owned electric utility shall annually*
23 *post notice, in accordance with Chapter 9 (commencing with*
24 *Section 54950) of Part 1 of Division 2 of Title 5 of the Government*
25 *Code, whenever its governing body will deliberate in public on its*
26 *renewable energy resources procurement plan.*

27 (2) *Contemporaneous with the posting of the notice of a public*
28 *meeting to consider the renewable energy resources procurement*
29 *plan, the local publicly owned electric utility shall notify the Energy*
30 *Commission of the date, time, and location of the meeting in order*
31 *to enable the Energy Commission to post the information on its*
32 *Internet Web site. This requirement is satisfied if the local publicly*
33 *owned electric utility provides the uniform resource locator (URL)*
34 *that links to this information.*

35 (3) *Upon distribution to its governing body of information*
36 *related to its renewable energy resources procurement status and*
37 *future plans, for its consideration at a noticed public meeting, the*
38 *local publicly owned electric utility shall make that information*
39 *available to the public and shall provide the Energy Commission*
40 *with an electronic copy of the documents for posting on the Energy*

1 Commission's Internet Web site. This requirement is satisfied if
2 the local publicly owned electric utility provides the uniform
3 resource locator (URL) that links to the documents or information
4 regarding other manners of access to the documents.

5 (f) A local publicly owned electric utility shall annually submit
6 to the Energy Commission documentation regarding eligible
7 renewable energy resources procurement contracts that it executed
8 during the prior year, as follows:

9 (1) A description of the eligible renewable energy resource,
10 including the duration of the contract or electricity purchase
11 agreement.

12 (2) A description and identification of the electrical generating
13 facility providing the eligible renewable energy resource under
14 the contract.

15 (3) An estimate of the percentage increase in the utility's total
16 retail sales of electricity from eligible renewable energy resources
17 that will result from the contract.

18 (g) A public utility district that receives all of its electricity
19 pursuant to a preference right adopted and authorized by the
20 United States Congress pursuant to Section 4 of the Trinity River
21 Division Act of August 12, 1955 (Public Law 84-386) shall be in
22 compliance with the renewable energy procurement requirements
23 of this article.

24 (h) For a local publicly owned electric utility that was in
25 existence on or before January 1, 2009, that provides retail electric
26 service to 15,000 or fewer customer accounts in California, and
27 is interconnected to a balancing authority located outside this
28 state but within the WECC, an eligible renewable energy resource
29 includes a facility that is located outside California that is
30 connected to the WECC transmission system, if all of the following
31 conditions are met:

32 (1) The electricity generated by the facility is procured by the
33 local publicly owned electric utility, is delivered to the balancing
34 authority area in which the local publicly owned electric utility is
35 located, and is not used to fulfill renewable energy procurement
36 requirements of other states.

37 (2) The local publicly owned electric utility participates in, and
38 complies with, the accounting system administered by the Energy
39 Commission pursuant to Article 4.

1 (3) *The Energy Commission verifies that the electricity*
2 *generated by the facility is eligible to meet the renewables portfolio*
3 *standard procurement requirements.*

4 (i) *Notwithstanding subdivision (a), for a local publicly owned*
5 *electric utility that is a joint powers authority of districts that*
6 *furnish electric services other than to residential customers, and*
7 *is formed pursuant to the Irrigation District Law (Division 11*
8 *(commencing with Section 20500) of the Water Code), the*
9 *percentage of total kilowatthours sold to the district's retail*
10 *end-use customers, upon which the renewables portfolio standard*
11 *procurement requirements in subdivision (b) are calculated, shall*
12 *be based on the average retail sales over the previous three years.*

13 (j) *A local publicly owned electric utility in a city and county*
14 *that only receives greater than 67 percent of its electricity sources*
15 *from hydroelectric generation located within the state that it owns*
16 *and operates, and that does not meet the definition of a "renewable*
17 *electrical generation facility" pursuant to Section 25741 of the*
18 *Public Resources Code, shall be required to procure eligible*
19 *renewable energy resources, including renewable energy credits,*
20 *to meet only the electricity demands unsatisfied by its hydroelectric*
21 *generation in any given year, in order to satisfy its renewable*
22 *energy procurement requirements.*

23 (k) *Each local publicly owned electric utility shall report, on*
24 *an annual basis, to its customers and to the Energy Commission,*
25 *all of the following:*

26 (1) *Expenditures of public goods funds collected pursuant to*
27 *Section 385 for eligible renewable energy resource development.*
28 *Reports shall contain a description of programs, expenditures,*
29 *and expected or actual results.*

30 (2) *The resource mix used to serve its customers by energy*
31 *source.*

32 (3) *The utility's status in implementing a renewables portfolio*
33 *standard pursuant to subdivision (a) and the utility's progress*
34 *toward attaining the standard following implementation.*

35 (l) *A local publicly owned electric utility shall retain discretion*
36 *over all of the following:*

37 (1) *The mix of eligible renewable energy resources procured*
38 *or owned by the utility and those additional generation resources*
39 *procured or owned by the utility for purposes of ensuring resource*
40 *adequacy and reliability.*

1 (2) *The prices paid by the utility for electricity generated by*
2 *eligible renewable energy resources.*

3 (3) *The reasonable costs incurred by the utility for eligible*
4 *renewable energy resources owned by the utility.*

5 (m) *On or before July 1, 2011, the Energy Commission shall*
6 *adopt regulations specifying procedures for enforcement of this*
7 *article. The regulations shall include a public process under which*
8 *the Energy Commission may issue a notice of violation and*
9 *correction against a local publicly owned electric utility for failure*
10 *to comply with this article, and for referral of violations to the*
11 *State Air Resources Board for penalties pursuant to subdivision*
12 *(n).*

13 (n) (1) *Upon a determination by the Energy Commission that*
14 *a local publicly owned electric utility has failed to comply with*
15 *this article, the Energy Commission shall refer the failure to*
16 *comply with this article to the State Air Resources Board which*
17 *may impose penalties to enforce this article consistent with Part*
18 *6 (commencing with Section 38580) of Division 25.5 of the Health*
19 *and Safety Code.*

20 (2) *For the purpose of this subdivision, this section is an*
21 *emissions reduction measure pursuant to Section 38580 of the*
22 *Health and Safety Code.*

23 (3) *If the State Air Resources Board has imposed a penalty upon*
24 *a local publicly owned electric utility for the utility's failure to*
25 *comply with this article, the State Air Resources Board shall not*
26 *impose an additional penalty for the same infraction, or the same*
27 *failure to comply, with any renewables procurement requirement*
28 *imposed upon the utility pursuant to the California Global*
29 *Warming Solutions Act of 2006 (Division 25.5 (commencing with*
30 *Section 38500) of the Health and Safety Code).*

31 (o) *The commission has no authority or jurisdiction to enforce*
32 *any of the requirements of this article on a local publicly owned*
33 *electric utility.*

34 SEC. 24. *Section 399.31 is added to the Public Utilities Code,*
35 *to read:*

36 399.31. *A retail seller may procure renewable energy credits*
37 *associated with deliveries of electricity by an eligible renewable*
38 *energy resource to a local publicly owned electric utility, for*
39 *purposes of compliance with the renewables portfolio standard*
40 *requirements, if both of the following conditions are met:*

1 (a) *The local publicly owned electric utility has adopted and*
2 *implemented a renewable energy resources procurement plan that*
3 *complies with the renewables portfolio standard adopted by the*
4 *Energy Commission pursuant to subdivision (f) of Section 399.25.*

5 (b) *The local publicly owned electric utility is procuring*
6 *sufficient eligible renewable energy resources to satisfy the target*
7 *standard, and will not fail to satisfy the target standard in the event*
8 *that the renewable energy credit is sold to the retail seller.*

9 SEC. 25. *Section 454.5 of the Public Utilities Code is amended*
10 *to read:*

11 454.5. (a) The commission shall specify the allocation of
12 electricity, including quantity, characteristics, and duration of
13 electricity delivery, that the Department of Water Resources shall
14 provide under its power purchase agreements to the customers of
15 each electrical corporation, which shall be reflected in the electrical
16 corporation's proposed procurement plan. Each electrical
17 corporation shall file a proposed procurement plan with the
18 commission not later than 60 days after the commission specifies
19 the allocation of electricity. The proposed procurement plan shall
20 specify the date that the electrical corporation intends to resume
21 procurement of electricity for its retail customers, consistent with
22 its obligation to serve. After the commission's adoption of a
23 procurement plan, the commission shall allow not less than 60
24 days before the electrical corporation resumes procurement
25 pursuant to this section.

26 (b) An electrical corporation's proposed procurement plan shall
27 include, but not be limited to, all of the following:

28 (1) An assessment of the price risk associated with the electrical
29 corporation's portfolio, including any utility-retained generation,
30 existing power purchase and exchange contracts, and proposed
31 contracts or purchases under which an electrical corporation will
32 procure electricity, electricity demand reductions, and
33 electricity-related products and the remaining open position to be
34 served by spot market transactions.

35 (2) A definition of each electricity product, electricity-related
36 product, and procurement related financial product, including
37 support and justification for the product type and amount to be
38 procured under the plan.

39 (3) The duration of the plan.

1 (4) The duration, timing, and range of quantities of each product
2 to be procured.

3 (5) A competitive procurement process under which the
4 electrical corporation may request bids for procurement-related
5 services, including the format and criteria of that procurement
6 process.

7 (6) An incentive mechanism, if any incentive mechanism is
8 proposed, including the type of transactions to be covered by that
9 mechanism, their respective procurement benchmarks, and other
10 parameters needed to determine the sharing of risks and benefits.

11 (7) The upfront standards and criteria by which the acceptability
12 and eligibility for rate recovery of a proposed procurement
13 transaction will be known by the electrical corporation prior to
14 execution of the transaction. This shall include an expedited
15 approval process for the commission's review of proposed contracts
16 and subsequent approval or rejection thereof. The electrical
17 corporation shall propose alternative procurement choices in the
18 event a contract is rejected.

19 (8) Procedures for updating the procurement plan.

20 (9) A showing that the procurement plan will achieve the
21 following:

22 (A) The electrical corporation ~~will~~ *shall*, in order to fulfill its
23 unmet resource needs ~~and in furtherance of Section 701.3, until a~~
24 ~~20 percent renewable resources portfolio is achieved~~, procure
25 ~~resources from eligible~~ renewable energy resources ~~with the goal~~
26 ~~of ensuring that at least an additional 1 percent per year of the~~
27 ~~electricity sold by the electrical corporation is generated from~~
28 ~~renewable energy resources, provided sufficient funds are made~~
29 ~~available pursuant to Sections 399.6 and 399.15, to cover the~~
30 ~~above-market costs for new renewable energy resources in an~~
31 ~~amount sufficient to meet its procurement requirements pursuant~~
32 ~~to the California Renewables Portfolio Standard Program (Article~~
33 ~~16 (commencing with Section 399.11) of Chapter 2.3).~~

34 (B) The electrical corporation will create or maintain a
35 diversified procurement portfolio consisting of both short-term
36 and long-term electricity and electricity-related and demand
37 reduction products.

38 (C) The electrical corporation will first meet its unmet resource
39 needs through all available energy efficiency and demand reduction
40 resources that are cost effective, reliable, and feasible.

1 (10) The electrical corporation's risk management policy,
2 strategy, and practices, including specific measures of price
3 stability.

4 (11) A plan to achieve appropriate increases in diversity of
5 ownership and diversity of fuel supply of nonutility electrical
6 generation.

7 (12) A mechanism for recovery of reasonable administrative
8 costs related to procurement in the generation component of rates.

9 (c) The commission shall review and accept, modify, or reject
10 each electrical corporation's procurement plan. The commission's
11 review shall consider each electrical corporation's individual
12 procurement situation, and shall give strong consideration to that
13 situation in determining which one or more of the features set forth
14 in this subdivision shall apply to that electrical corporation. A
15 procurement plan approved by the commission shall contain one
16 or more of the following features, provided that the commission
17 may not approve a feature or mechanism for an electrical
18 corporation if it finds that the feature or mechanism would impair
19 the restoration of an electrical corporation's creditworthiness or
20 would lead to a deterioration of an electrical corporation's
21 creditworthiness:

22 (1) A competitive procurement process under which the
23 electrical corporation may request bids for procurement-related
24 services. The commission shall specify the format of that
25 procurement process, as well as criteria to ensure that the auction
26 process is open and adequately subscribed. Any purchases made
27 in compliance with the commission-authorized process shall be
28 recovered in the generation component of rates.

29 (2) An incentive mechanism that establishes a procurement
30 benchmark or benchmarks and authorizes the electrical corporation
31 to procure from the market, subject to comparing the electrical
32 corporation's performance to the commission-authorized
33 benchmark or benchmarks. The incentive mechanism shall be
34 clear, achievable, and contain quantifiable objectives and standards.
35 The incentive mechanism shall contain balanced risk and reward
36 incentives that limit the risk and reward of an electrical corporation.

37 (3) Upfront achievable standards and criteria by which the
38 acceptability and eligibility for rate recovery of a proposed
39 procurement transaction will be known by the electrical corporation
40 prior to the execution of the bilateral contract for the transaction.

1 The commission shall provide for expedited review and either
2 approve or reject the individual contracts submitted by the electrical
3 corporation to ensure compliance with its procurement plan. To
4 the extent the commission rejects a proposed contract pursuant to
5 this criteria, the commission shall designate alternative procurement
6 choices obtained in the procurement plan that will be recoverable
7 for ratemaking purposes.

8 (d) A procurement plan approved by the commission shall
9 accomplish each of the following objectives:

10 (1) Enable the electrical corporation to fulfill its obligation to
11 serve its customers at just and reasonable rates.

12 (2) Eliminate the need for after-the-fact reasonableness reviews
13 of an electrical corporation's actions in compliance with an
14 approved procurement plan, including resulting electricity
15 procurement contracts, practices, and related expenses. However,
16 the commission may establish a regulatory process to verify and
17 ~~assure~~ *ensure* that each contract was administered in accordance
18 with the terms of the contract, and contract disputes which may
19 arise are reasonably resolved.

20 (3) Ensure timely recovery of prospective procurement costs
21 incurred pursuant to an approved procurement plan. The
22 commission shall establish rates based on forecasts of procurement
23 costs adopted by the commission, actual procurement costs
24 incurred, or combination thereof, as determined by the commission.
25 The commission shall establish power procurement balancing
26 accounts to track the differences between recorded revenues and
27 costs incurred pursuant to an approved procurement plan. The
28 commission shall review the power procurement balancing
29 accounts, not less than semiannually, and shall adjust rates or order
30 refunds, as necessary, to promptly amortize a balancing account,
31 according to a schedule determined by the commission. Until
32 January 1, 2006, the commission shall ensure that any
33 overcollection or undercollection in the power procurement
34 balancing account does not exceed 5 percent of the electrical
35 corporation's actual recorded generation revenues for the prior
36 calendar year excluding revenues collected for the Department of
37 Water Resources. The commission shall determine the schedule
38 for amortizing the overcollection or undercollection in the
39 balancing account to ensure that the 5 percent threshold is not
40 exceeded. After January 1, 2006, this adjustment shall occur when

1 deemed appropriate by the commission consistent with the
2 objectives of this section.

3 (4) Moderate the price risk associated with serving its retail
4 customers, including the price risk embedded in its long-term
5 supply contracts, by authorizing an electrical corporation to enter
6 into financial and other electricity-related product contracts.

7 (5) Provide for just and reasonable rates, with an appropriate
8 balancing of price stability and price level in the electrical
9 corporation's procurement plan.

10 (e) The commission shall provide for the periodic review and
11 prospective modification of an electrical corporation's procurement
12 plan.

13 (f) The commission may engage an independent consultant or
14 advisory service to evaluate risk management and strategy. The
15 reasonable costs of any consultant or advisory service is a
16 reimbursable expense and eligible for funding pursuant to Section
17 631.

18 (g) The commission shall adopt appropriate procedures to ensure
19 the confidentiality of any market sensitive information submitted
20 in an electrical corporation's proposed procurement plan or
21 resulting from or related to its approved procurement plan,
22 including, but not limited to, proposed or executed power purchase
23 agreements, data request responses, or consultant reports, or any
24 combination, provided that the Office of Ratepayer Advocates and
25 other consumer groups that are nonmarket participants shall be
26 provided access to this information under confidentiality
27 procedures authorized by the commission.

28 (h) Nothing in this section alters, modifies, or amends the
29 commission's oversight of affiliate transactions under its rules and
30 decisions or the commission's existing authority to investigate and
31 penalize an electrical corporation's alleged fraudulent activities,
32 or to disallow costs incurred as a result of gross incompetence,
33 fraud, abuse, or similar grounds. Nothing in this section expands,
34 modifies, or limits the State Energy Resources Conservation and
35 Development Commission's existing authority and responsibilities
36 as set forth in Sections 25216, 25216.5, and 25323 of the Public
37 Resources Code.

38 (i) An electrical corporation that serves less than 500,000 electric
39 retail customers within the state may file with the commission a

request for exemption from this section, which the commission shall grant upon a showing of good cause.

(j) (1) Prior to its approval pursuant to Section 851 of any divestiture of generation assets owned by an electrical corporation on or after the date of enactment of the act adding this section, the commission shall determine the impact of the proposed divestiture on the electrical corporation's procurement rates and shall approve a divestiture only to the extent it finds, taking into account the effect of the divestiture on procurement rates, that the divestiture is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after the effective date of the act adding this subdivision shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

(3) Notwithstanding paragraph (2), the commission may deem proposed procurement eligible to use the procedures in this section upon its approval of asset divestiture pursuant to Section 851.

SEC. 26. Article 11 (commencing with Section 910) is added to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 11. Reports

910. (a) The commission shall, on an annual basis by February 1 of each year, prepare and submit to the policy and fiscal committees of the Legislature a written report summarizing the following information:

(1) All electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, as defined in Section 399.12, including direct procurement costs for eligible renewable energy resources and renewable energy credits, administrative expenses for procurement, expenses incurred to ensure a reliable supply of electricity, and expenses for upgrades to the electrical transmission and distribution grid necessary to the delivery of electricity from eligible renewable energy resources to load.

1 (2) All cost savings experienced, or costs avoided, by electrical
2 corporations as a result of meeting the renewables portfolio
3 standard.

4 (3) All costs incurred by electrical corporations for incentives
5 for distributed and renewable generation, including the
6 self-generation incentive program, the California Solar Initiative,
7 and net energy metering.

8 (4) All cost savings experienced, or costs avoided, by electrical
9 corporations as a result of incentives for distributed and renewable
10 generation.

11 (5) All renewable, fossil fuel, and nuclear procurement costs,
12 research, study, or pilot program costs, or other program costs
13 for which an electrical corporation is seeking recovery in rates,
14 that is pending determination or approval by the commission.

15 (6) The decision number for each decision of the commission
16 of recovery in rates of costs incurred by an electrical corporation
17 since the preceding report.

18 (7) Any change in the electrical load serviced by an electrical
19 corporation since the preceding report.

20 (b) The commission may combine the information required by
21 this section with the reports prepared pursuant to Article 16
22 (commencing with Section 399.11) of Chapter 2.3.

23 SEC. 27. Section 1005.1 is added to the Public Utilities Code,
24 to read:

25 1005.1. (a) The commission shall issue a decision on an
26 application for a certificate within 18 months of the date of filing
27 of the completed application, when all of the following are true:

28 (1) The application is for a certificate for building or upgrading
29 an electrical transmission line that the commission finds necessary
30 to provide transmission to load centers for electricity generated
31 in a high priority renewable energy zone or is reasonably necessary
32 to facilitate achievement of the renewables portfolio standard
33 established in Article 16 (commencing with Section 399.11) of
34 Chapter 2.3.

35 (2) The commission has considered all of the following:

36 (A) The utilization of rights-of-way by upgrading existing
37 transmission facilities instead of building new transmission
38 facilities, where technically and economically justifiable.

1 (B) *The expansion of existing rights-of-way, if technically and*
2 *economically feasible, when construction of new transmission lines*
3 *is required.*

4 (C) *The creation of new rights-of-way when justified by*
5 *environmental, technical, and economic reasons.*

6 (D) *The availability of cost-effective alternatives to transmission,*
7 *such as energy efficiency measures and distributed generation.*

8 (3) *The commission has not expressly found any of the following:*

9 (A) *That the investment is not reasonable and necessary to*
10 *maintain or enhance reliability of the transmission grid.*

11 (B) *That the building or upgrading of the electrical transmission*
12 *line will not maintain or enhance efficient use of the transmission*
13 *grid.*

14 (C) *That the transmission line fails to meet other applicable*
15 *standards and requirements for approval and construction.*

16 (b) *An extension of time may be granted by the commission if*
17 *it finds the extension is necessary for completion of review pursuant*
18 *to the California Environmental Quality Act (Division 13*
19 *(commencing with Section 21000) of the Public Resources Code).*

20 SEC. 28. *No reimbursement is required by this act pursuant*
21 *to Section 6 of Article XIII B of the California Constitution because*
22 *certain costs that may be incurred by a local agency or school*
23 *district will be incurred because this act creates a new crime or*
24 *infraction, eliminates a crime or infraction, or changes the penalty*
25 *for a crime or infraction, within the meaning of Section 17556 of*
26 *the Government Code, or changes the definition of a crime within*
27 *the meaning of Section 6 of Article XIII B of the California*
28 *Constitution.*

29 *With respect to certain other costs, no reimbursement is required*
30 *by this act pursuant to Section 6 of Article XIII B of the California*
31 *Constitution because a local agency or school district has the*
32 *authority to levy service charges, fees, or assessments sufficient*
33 *to pay for the program or level of service mandated by this act,*
34 *within the meaning of Section 17556 of the Government Code.*

35 SEC. 29. *The sum of three hundred twenty-two thousand dollars*
36 *(\$322,000) is hereby appropriated from the Public Utilities*
37 *Commission Utilities Reimbursement Account to the Public Utilities*
38 *Commission for additional staffing to identify, review, and approve*
39 *transmission lines reasonably necessary or appropriate to facilitate*
40 *achievement of the renewables portfolio standard established in*

Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

SECTION 1. ~~Division 25.7 (commencing with Section 38700) is added to the Health and Safety Code, to read:~~

~~DIVISION 25.7. GREENHOUSE GAS REDUCTION
REPRESENTATIONS~~

~~38700. The Legislature finds and declares all of the following:~~

~~(a) Global warming poses a serious challenge to the world's environment and economy.~~

~~(b) With increasing concern regarding climate change, there has been an increase in the advertising, sale, and transfer of greenhouse gas emission reduction credits, offsets, and similar products designed to allow individuals or entities, or both, to purchase emission reduction credits to voluntarily offset greenhouse gas emissions from the activities of the purchaser.~~

~~(c) While voluntary greenhouse gas emission reductions can contribute to efforts to reduce global warming, consumers and other members of the public have few protections or standardized methods by which to ensure that they are purchasing or obtaining emission reduction credits that actually reduce greenhouse gases, reduce global warming, and improve the environment.~~

~~(d) The purposes of this division are to protect the consumer and to ensure that the benefits to the environment through the sale of legitimate greenhouse gas emission reduction credits, offsets, or similar products are realized.~~

~~38701. For the purposes of this division, the following terms have the following meanings:~~

~~(a) "Greenhouse gas credit," "emission reduction," "credit," "offset," "reduction," or any similar term, means a voluntary reduction in the emissions of greenhouse gases into the atmosphere undertaken for the purposes of selling, trading, or otherwise providing the credit or emission reduction to another party.~~

~~(b) "Person" has the same meaning as set forth in subdivision (c) of Section 17577.1 of the Business and Professions Code.~~

~~38702. It is unlawful for any person to represent in an advertisement or in any other sales or promotional materials made available to the public for the sale of a greenhouse gas credit or emission reduction, that the credit or reduction reduces greenhouse~~

~~gas emissions unless it meets one or more of the following conditions:~~

~~(a) The credit or emission reduction meets methodologies or standards that have been adopted or approved by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500).~~

~~(b) The credit or emission reduction complies with one or more protocols for voluntary emission reductions of greenhouse gases adopted by the California Climate Action Registry consistent with the requirements in former Chapter 6 (commencing with Section 42800) of Part 4 of Division 26, as effective on December 31, 2007, and is registered with the California Climate Action Registry.~~

~~(c) The person demonstrates, and discloses in any advertising or other sales or promotional material made available to the public, that the credit or emission reduction meets all of the following conditions:~~

~~(1) The credit or emission reduction is quantifiable and measurable in a manner that is consistent with the protocols developed pursuant to the reporting regulations adopted by the State Air Resources Board pursuant to Part 2 (commencing with Section 38530) of Division 25.5.~~

~~(2) The credit or emission reduction is surplus, and is in addition to any greenhouse gas emission reduction that otherwise would occur.~~

~~(3) The credit or emission reduction is verifiable by a state, regional, or local agency within the State of California.~~

~~(4) The credit or emission reduction does not cause or contribute to a violation of any state or federal ambient air quality standard or toxic air contaminant standard.~~

~~38703. (a) Any person that represents in an advertisement or in any other sales or promotional materials made available to the public for the sale of a greenhouse gas credit or emission reduction, that the credit or emission reduction results in a reduction in greenhouse gases, shall maintain in written form and make available to any member of the public who requests it all of the following information and documentation supporting the validity of the representation:~~

~~(1) The basis for the claim, including documentation that one or more of the conditions required by Section 38702 have been met.~~

1 ~~(2) Information on any adverse environmental or public health~~
2 ~~impacts associated with the creation and maintenance of the credit~~
3 ~~or emission reduction, including impacts on species, habitat,~~
4 ~~ecosystems, land use, biodiversity, air quality, water supply and~~
5 ~~quality, access to food, and production of food.~~

6 ~~(b) A retailer that does not initiate a representation by advertising~~
7 ~~or through other means available to the public shall not be deemed~~
8 ~~to be in violation of this section.~~

9 ~~38704. (a) A violation of this division is punishable by a civil~~
10 ~~penalty not to exceed two thousand five hundred dollars (\$2,500)~~
11 ~~per violation, and by the payment of the cost of the purchase of~~
12 ~~the credit, offset, or reduction as defined pursuant to subdivision~~
13 ~~(a) of Section 38701.~~

14 ~~(b) A violation of this division creates a civil cause of action~~
15 ~~that may be brought by any person or governmental entity.~~

16 ~~(c) Reasonable attorney fees and costs shall be available for any~~
17 ~~action brought pursuant to this section.~~

18 ~~(d) A violation of this division is not a crime.~~

19 ~~(e) The remedies provided in this section are in addition to any~~
20 ~~other rights or remedies under any other provision of law.~~

21 ~~38705. This division shall become operative on January 1,~~
22 ~~2011, and shall become inoperative if the Federal Trade~~
23 ~~Commission adopts binding and enforceable trade rules or~~
24 ~~regulations for claims or representations for greenhouse gas~~
25 ~~emission reduction credits or reductions to protect consumers.~~